MONTANA LEGISLATIVE HISTORY

Chapter 465 ~~19~~ 2001

Bill H _____ S 77 Original bill & history ✓ C

H. Committee on Human Services			S. Committee on Public Health, Welfare		
Hearing Date(s)	3-12	C	Hearing Date(s)	1-22	C
	3-20	C		1-24	C
		C			C
		C			C
Date Out	3-21	C	DATE OUT	1-24	

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1/10	3rd Reading Passed	49	0
	Transmitted to House		
2/01	Referred to State Administration		
2/07	Hearing		
2/07	Committee Executive Action--Bill Concurred	17	0
2/07	Committee Report--Bill Concurred		
3/02	2nd Reading Concurred	91	8
3/03	3rd Reading Concurred	94	6
	Returned to Senate		
3/05	Sent to Enrolling		
3/05	Returned from Enrolling		
3/07	Signed by President		
3/08	Signed by Speaker		
3/08	Transmitted to Governor		
3/16	Signed by Governor		
3/16	Chapter Number Assigned		
	Chapter Number 67		
	Effective Date: 3/16/2001 - All Sections		

SB 76 Introduced by Hargrove *LC0318 Drafter: Lane*

Improve Collection of Victim Restitution

By Request of Department of Corrections

12/12	Introduced		
1/03	First Reading		
1/03	Referred to Judiciary		
2/23	Missed Deadline for General Bill Transmittal		

SB 77 Introduced by Hargrove *LC0416 Drafter: Petesch*

Revise Laws Governing Public Assistance

By Request of Department of Public Health and Human Services

11/02	Fiscal Note Needed		
12/12	Introduced		
12/14	Fiscal Note Requested		
1/03	First Reading		
1/03	Referred to Public Health, Welfare and Safety		
1/08	Fiscal Note Received		
1/09	Fiscal Note Signed		
1/09	Fiscal Note Printed		
1/22	Hearing		
1/29	Committee Executive Action--Bill Passed as Amended	10	0
1/29	Committee Report--Bill Passed as Amended		
1/31	2nd Reading Passed on Voice Vote	47	0
2/01	3rd Reading Passed	45	0
	Transmitted to House		
3/01	Referred to Human Services		
3/12	Hearing		
3/21	Committee Executive Action--Bill Concurred as Amended	14	4
3/21	Committee Report--Bill Concurred as Amended		
3/29	2nd Reading Concurred	88	12

3/31	3rd Reading Concurred	88	12
	Returned to Senate with Amendments		
4/03	2nd Reading House Amendments Concurred on Voice Vote	49	0
4/04	3rd Reading Passed as Amended by House	48	0
4/04	Sent to Enrolling		
4/06	Returned from Enrolling		
4/06	Signed by President		
4/09	Signed by Speaker		
4/10	Transmitted to Governor		
4/20	Returned with Governor's Proposed Amendments		
4/21	2nd Reading Governor's Proposed Amendments Concurred	31	13
4/21	2nd Reading Governor's Proposed Amendments Concurred	57	43
4/21	3rd Reading Governor's Proposed Amendments Concurred	52	48
4/21	Returned to Senate Concurred in Governor's Proposed Amendments		
4/21	3rd Reading Governor's Proposed Amendments Concurred	36	10
4/21	Transmitted to House for Consideration of Governor's Proposed Amendments		
4/23	Sent to Enrolling		
4/25	Returned from Enrolling		
4/26	Signed by President		
4/26	Signed by Speaker		
4/26	Transmitted to Governor		
4/30	Signed by Governor		
4/30	Chapter Number Assigned		
	Chapter Number 465		
	Effective Date: 7/01/2001 - All Sections		

SB 78 Introduced by Hargrove *LC0430 Drafter: Higgins*

One Stop Licensing Fee Revision

11/03	Fiscal Note Needed		
12/12	Introduced		
12/14	Fiscal Note Requested		
1/03	First Reading		
1/03	Referred to Business and Labor		
1/08	Fiscal Note Received		
1/09	Fiscal Note Signed		
1/09	Fiscal Note Printed		
1/22	Hearing		
2/01	Committee Executive Action--Bill Passed	9	0
2/01	Committee Report--Bill Passed		
2/02	2nd Reading Passed on Voice Vote	45	0
2/03	3rd Reading Passed	42	0
	Transmitted to House		
3/01	Referred to Business and Labor		
3/05	Hearing		
3/05	Committee Executive Action--Bill Concurred	19	0
3/06	Committee Report--Bill Concurred		
3/07	2nd Reading Concurred	96	3
3/08	3rd Reading Concurred	96	3
	Returned to Senate		
3/08	Sent to Enrolling		
3/09	Returned from Enrolling		
3/10	Signed by President		
3/14	Signed by Speaker		
3/16	Transmitted to Governor		
3/23	Signed by Governor		

SENATE BILL NO. 77

INTRODUCED BY D. HARGROVE

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE; DEFINING FINANCIAL ASSISTANCE AND NONFINANCIAL ASSISTANCE TO COMPORT WITH FEDERAL LAW; REMOVING AUTHORITY FOR ONE-TIME-ONLY INCOME EXCLUSIONS FOR SPECIAL EMPLOYMENT-RELATED NEEDS; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE DURATION OF BENEFITS AND ELIGIBILITY FOR NONFINANCIAL ASSISTANCE; CLARIFYING SANCTIONS FOR FAILURE OR REFUSAL TO COMPLY WITH FAMILY INVESTMENT AGREEMENTS; REMOVING REFERENCES TO PATHWAYS AND THE COMMUNITY SERVICES PROGRAM; REMOVING THE DESIGNATED COMPONENTS OF THE FAIM PROGRAM; AMENDING SECTIONS 23-1-303, 39-7-303, 39-71-118, 39-71-123, 40-4-215, 40-5-242, 40-5-248, 53-2-201, 53-2-211, 53-2-606, 53-2-610, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-2-904, 53-2-1103, 53-4-201, 53-4-202, 53-4-212, 53-4-214, 53-4-231, 53-4-233, 53-4-241, 53-4-246, 53-4-247, 53-4-602, 53-4-606, 53-4-611, 53-4-612, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, 53-6-101, 53-6-113, 53-6-131, 53-6-132, 53-6-134, AND 53-24-106, MCA; REPEALING SECTIONS 53-4-247, 53-4-603, 53-4-607, 53-4-608, AND 53-4-701, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-1-303, MCA, is amended to read:

"23-1-303. Powers and duties of the division. The division, in cooperation with the department, may:

(1) hire a corps coordinator;

(2) coordinate with state agencies to place eligible participants in work experience projects, including those recipients of ~~FAIM~~ financial assistance, as defined in ~~53-2-902~~ 53-4-201, utilizing grant diversion funding and to place youth who are under state supervision utilizing payments from the department of public health and human services;

(3) develop and approve work experience projects that meet the requirements of this part;

(4) ensure that work experience projects involve labor-intensive improvements to public lands or facilities that will result in a public value and have a potential to yield revenue;

(5) execute contracts or cooperative agreements containing the terms and conditions necessary and desirable for the employment of crewleaders and corpsmembers in approved work experience projects with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

(6) execute contracts or cooperative agreements with federal, state, or local agencies, persons, partnerships, associations, or corporations for the purpose of administering the requirements of this part;

(7) develop procedures for awarding incentive vouchers;

(8) authorize use of the corps for emergency projects, including but not limited to natural disasters, fire prevention and suppression, and rescue of lost or injured persons, and provide adequate training to corpsmembers prior to participation in an emergency project;

(9) apply for and accept grants or contributions of services, funds, or lands from any public or private donors, including the acceptance of federal funds appropriated by the legislature;

(10) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment necessary to complete work experience projects; and

(11) adopt rules and guidelines necessary to implement the provisions of this part and to effectively administer the program."

Section 2. Section 39-7-303, MCA, is amended to read:

"39-7-303. Definitions. As used in this part, the following definitions apply:

(1) "Adult" means a person who is 18 years of age or older.

(2) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701.

(3) "Displaced homemaker" means an adult who:

(a) has worked as an adult primarily without remuneration to care for the home and family and for that reason has diminished marketable skills and who has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

(b) (i) is a parent whose youngest dependent child will become ineligible to receive financial assistance ~~under the FAIM financial assistance~~, as defined in ~~53-2-902~~ 53-4-201, pursuant to Title 53, chapter 4, part 2, within 2 years of the parent's application for displaced homemaker assistance;

(ii) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or

suitable employment, as appropriate; or

(iii) meets the qualifications described in subsection (3)(a) or (3)(b) and is a criminal offender."

Section 3. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, and volunteer firefighter defined. (1) The term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in this chapter, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as defined in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in this chapter, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an

impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

(g) a person who is an enrolled member of a volunteer fire department, as described in 7-33-4109, or a person who provides ambulance services under Title 7, chapter 34, part 1; and

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704 is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for ~~participants in the FAIM project~~ recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's ~~FAIM~~ public assistance participants and may only be for the duration of each participant's training ~~in the FAIM project~~ while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment;

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs

services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(d) serving as a foster parent, licensed as a foster care provider in accordance with 41-3-1141, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

(4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a fire company organized and funded by a county, a rural fire district, or a fire service area.

(b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an employer, including but not limited to training time, response time, and time spent at the employer's premises.

(5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $900 a month and not more than 1 1/2 times the average weekly wage, as defined in this

chapter.

(6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $200 a week and not more than 1 1/2 times the average weekly wage, as defined in this chapter.

(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly wage divided by 40 hours, subject to a maximum of 1 1/2 times the average weekly wage.

(8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational

institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(10) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(11) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection (10)(d)."

Section 4. Section 39-71-123, MCA, is amended to read:

"39-71-123. Wages defined. (1) "Wages" means all remuneration paid for services performed by an employee for an employer, or income provided for in subsection (1)(d). Wages include the cash value of all remuneration paid in any medium other than cash. The term includes but is not limited to:

(a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness ~~periods~~;

(b) backpay or any similar pay made for or in ~~regards~~ regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;

(c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;

(d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;

(e) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and

(f) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.

(2) The term "wages" does not include any of the following:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(b) the amount of the payment made by the employer for employees, if the payment was made for:

(i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(ii) sickness or accident disability under a workers' compensation policy;

(iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;

(iv) death, including life insurance for the employee or the employee's immediate family;

(c) vacation or sick leave benefits accrued but not paid;

(d) special rewards for individual invention or discovery; or

(e) monetary and other benefits paid to a person as part of public assistance ~~provided through the FAIM project~~, as defined in ~~53-4-702~~ 53-4-201.

(3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) The compensation benefits for a covered volunteer must be based on the average actual wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual wages of all employments, except for the wages earned by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred."

Section 5. Section 40-4-215, MCA, is amended to read:

"**40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a recipient of ~~cash assistance under the temporary assistance for needy families block grant, FAIM~~ financial assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined in 53-2-902, ~~food stamps, or public assistance~~ and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid from the fees for filing petitions for contested amendment of a parenting plan, as provided in 25-1-201(9).

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

(a) parenting education;

(b) mediation pursuant to 40-4-301;

(c) factfinding by the investigator; and

(d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has information about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child ~~has reached the age of~~ is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 6. Section 40-5-242, MCA, is amended to read:

"40-5-242. Notice of support lien -- civil liability upon failure to honor support lien or to comply with warrant for distraint. (1) The department may, at any time after asserting a support lien, serve a notice of the lien on any person, firm, corporation, association, or political subdivision or department of the state in possession of any real or personal property that is due, owing, or belonging to an obligor. For this purpose, personal property includes the obligor's share of a decedent's estate, workers' compensation benefits, and any proceeds or potential proceeds from suits at law. Except as provided in subsections (1)(a) and (1)(b), the department may not impose a lien under this section upon a self-sufficiency trust

established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial assistance program~~ for temporary assistance for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(2) Except as provided in subsection (3), a person or entity is liable to the department in an amount equal to 100% of the value of a support lien or warrant for distraint or the value of real or personal property subject to a support lien or distrained by a warrant for distraint, whichever is less, together with costs, interest, and reasonable attorney fees, if the person or entity:

(a) pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien, to or for the benefit of the obligor, after the person or entity receives actual notice of filing of the support lien; or

(b) fails or refuses to surrender upon demand property of an obligor when presented with a warrant for distraint by a sheriff or levying officer under the provisions of 40-5-247.

(3) A person or entity is not liable to the department under this section when:

(a) a written release or waiver of the support lien or warrant for distraint issued by the department has been delivered to the person or entity;

(b) a determination has been made in an adjudicative proceeding, either administrative or judicial, that a support lien does not exist or that the lien has been satisfied; or

(c) the property subject to a support lien has been transferred to, paid over to, or repossessed by a person or entity holding:

(i) a prior perfected lien;

(ii) a mortgage, the proceeds of which were used by the obligor to purchase real property; or

(iii) a perfected purchase money security interest, as [defined by 30-9-107] described by 30-9-321.

(Bracketed reference deleted July 1, 2001.)"

Section 7. Section 40-5-248, MCA, is amended to read:

"40-5-248. Lien against real and personal property -- effect of lien -- interest -- warrant for distraint. (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as [defined in 30-9-107] described in 30-9-321.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until 2 years after the child to whom the support lien is related attains the age of majority, whichever occurs first.

(5) The lien applies to all real and personal property owned by the obligor if it can be located in the state. The lien applies to all real and personal property that the obligor can afterward acquire. Except as provided in subsections (5)(a) and (5)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department

is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial~~ for temporary assistance ~~program~~ for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(6) The department shall keep a record of support liens asserted under this section in the registry of support orders established by 40-5-271.

(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of ownership is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under [30-9-401] 30-9-321. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer, in the ordinary course of business, who buys an obligor's personal property for value and who buys in good faith and without knowledge of the support lien takes the property free of the support lien.

(9) (a) The department may charge interest on the support lien at the rate of 1% per month.

(b) Interest accrues at the close of the business day on the last day of each month and is calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end of the day, by the applicable rate of interest.

(c) A provision of this section may not be construed to require the department to maintain interest balance due accounts. The department may waive interest if waiver would facilitate the collection of the debt.

(d) Interest under this subsection (9) is in addition to and not in substitution for any other interest accrued or accruing under any other provision of law.

(10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the department shall take all necessary steps to release the support lien.

(b) Upon receiving partial payment of the support lien or if the department determines that a release or partial release of the lien will facilitate the collection of support arrearages, the department may release or partially release the support lien. The department may release the support lien if it determines that the lien is unenforceable.

(11) A support lien under this section is in addition to any other lien created by law.

(12) A support lien under this section may not be discharged in bankruptcy.

(13) Support liens provided for by this section may be enforced or collected through the warrant for distraint provided for by 40-5-247. (Bracketed references deleted July 1, 2001.)"

Section 8. Section 53-2-201, MCA, is amended to read:

"**53-2-201. Powers and duties of department.** (1) The department shall:

(a) administer and supervise public assistance, including the provision of food stamps, food commodities, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance, employment and training services for recipients of public assistance, and other programs as necessary to strengthen and preserve families;

(b) give consultant service to private institutions providing care for adults who are needy, indigent, or dependent or who have disabilities;

(c) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(d) ~~provide services in respect to organization~~ organize and supervise ~~county departments~~ the local offices of public ~~welfare and county boards of public welfare~~ assistance in ~~the administration of public assistance functions and for efficiency and economy~~ an efficient and economical manner;

(e) assist and cooperate with other state and federal departments, bureaus, agencies, and

institutions, when requested, by performing services in conformity with public assistance purposes;

(f) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

(g) make rules governing payment for services and supplies provided to recipients of public assistance; and

(h) adopt rules regarding assignment of monetary and medical support upon application for ~~FAIM~~ financial assistance, as defined in 53-2-902, and related medical assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property that is necessary to carry out its public assistance functions. Title to property obtained under this subsection must be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance."

Section 9. Section 53-2-211, MCA, is amended to read:

"53-2-211. Department to share eligibility data. (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and ~~the~~ workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance~~,~~ and weatherization. The information made available must include information on the amount and source of an applicant's income.

The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in 15-30-303(8)(c).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income energy assistance, weatherization, or other public assistance. ~~The information may be disclosed only for purposes directly connected with the administration of a program or purpose of the agency and may not be used by the agency for any other purpose.~~"

Section 10. Section 53-2-606, MCA, is amended to read:

"**53-2-606. Right of appeal.** (1) If an application for assistance for food stamps, ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made with which the applicant or recipient is not satisfied, the applicant or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing to the department of public health and human services. The board of public assistance shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a county welfare board and may consider any application upon which a decision has not been made by the county board within a reasonable time from the filing of the decision. The department may have an additional ~~investigation~~ eligibility determination made and shall make a decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions

of this title.

(3) If the department reviews a county decision on its own motion, applicants or recipients affected by the decisions of the department shall upon request be given reasonable notice and an opportunity for a fair hearing by the board of public assistance.

~~(4) All decisions of the department or the board of public assistance are final and are binding and must be complied with by the county department.~~"

Section 11. Section 53-2-610, MCA, is amended to read:

"**53-2-610. County to reimburse department.** (1) On or before the 20th of each month, the department shall present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county to recipients during the month and for vendor medical payments made on behalf of recipients in the previous month. The county department shall make the reimbursement to the department within 20 days after the claim is presented.

(2) The counties may not be required to reimburse the department for:

(a) any portion of public assistance paid to a household eligible for ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, if the household includes an enrolled Indian who is the caretaker relative of a needy dependent child; or

(b) any payment on behalf of any person in a state-operated medical institution.

(3) (a) From the original date of entrustment or the original date of state residency, whichever is earlier, recipients of public assistance who become wards or patients in a licensed nursing home or hospital, foster home, or private charitable institution are the financial responsibility of the appropriate county as provided in subsections (3)(b) through (3)(d).

(b) The county in which commitment of an adult is initiated is considered the county of financial responsibility except when a court decree declares the residency to be otherwise. When an adult is transferred from a facility or institution to one of the facilities listed in subsection (3)(a), the county that initiated the original commitment is considered the county of financial responsibility except in the case of an adult transfer from an out-of-state institution, in which case the county in which the facility is located is considered the county of financial responsibility.

(c) In all cases in which a minor patient or ward is involved, the county of financial responsibility is the county in which the parent or guardian resides. If the custody of a minor is entrusted to a state

agency, the agency may make a reasonable declaration of the county residency of its ward using applicable guidelines enumerated in this section.

(d) If a person is or becomes an adult while in an institution, the person may determine the county of residence when the person is restored to competency and released. The person becomes the financial responsibility of the new county of residence."

Section 12. Section 53-2-613, MCA, is amended to read:

"53-2-613. Application for assistance -- assignment of support rights. (1) Applications for public assistance, including but not limited to ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, and medical assistance, ~~must~~ may be made ~~to the county department of public welfare in the county~~ in ~~which the person is residing~~ any local office of public assistance. The application must be submitted, in the manner and form prescribed by the department, and must contain information required by the department.

(2) A person who signs an application for ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance assigns to the state, to the department, and to the county ~~welfare department~~, if county funds were used to pay for services, all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or in behalf of any other family member for whom application is made. A person who signs an application for public assistance other than ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance may, in accordance with rules adopted by the department, be required to assign to the state, to the department, and to the county ~~welfare department~~ all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or on behalf of any other family member for whom application is made.

(3) The assignment:

(a) is effective for both current and accrued support, including unpaid support that accrued before the applicant received public assistance, and medical obligations;

(b) takes effect upon a determination that the applicant is eligible for public assistance; and

(c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

(4) If a person who is the legal custodian and child support obligee under a support order

relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical custody of the child, except for any unpaid support still owing under the assignment at that time.

(5) Whenever a child support or spousal support obligation is assigned to the department pursuant to this section, the following provisions apply:

(a) If the support obligation is based upon a judgment or decree or an order of a court of competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse the cumulative total of public assistance money expended.

(b) A recipient or former recipient of public assistance may not commence or maintain an action to recover or enforce a delinquent support obligation or make any agreements with any other person or agency concerning the support obligation, except as provided in 40-5-202.

(c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay over or release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant to a judgment or decree or an order of the court until the department's child support enforcement division has filed a written notice that:

(i) the assignment of current support amounts has been terminated; and

(ii) all assigned support delinquencies, if any, are satisfied or released.

(d) A recipient or former recipient of public assistance may not take action to modify or make any agreement to modify, settle, or release any past, present, or future support obligation unless the department's child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or agreements entered into without the participation of the department are void with respect to the state, the department, and the county welfare department.

(e) A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order."

Section 13. Section 53-2-901, MCA, is amended to read:

"**53-2-901. Administration of food stamp program -- rulemaking authority.** (1) The department is authorized to administer the food stamp program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the food stamp program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of ~~FAIM~~ financial assistance who have been sanctioned because of failure to meet any requirement of that program.

(4) The department may adopt rules that include but are not limited to rules concerning:

(a) requirements for recipients to assign the right of support;

(b) requirements for recipients to cooperate with the state agency administering the child support enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

(c) disqualification for failure to perform actions required by other means-tested programs, for failure to cooperate with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C. 2015."

Section 14. Section 53-2-902, MCA, is amended to read:

"**53-2-902. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of public health and human services provided in Title 2, chapter 15, part 22.

(2) "Employment and training demonstration project" means the employment and training program for recipients of ~~FAIM~~ financial assistance who are participating in the FAIM project.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(3) "FAIM project" means the families achieving independence in Montana project, including the ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

(4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(5) "Food stamp program" means the provision of food stamp benefits that can be used to purchase food to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.

(6) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(7) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C. 601, et seq."

Section 15. Section 53-2-903, MCA, is amended to read:

"53-2-903. Employment and training program. The department shall establish and administer an employment and training program for food stamp recipients that is in compliance with federal requirements. For purposes of the FAIM project, in accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may merge its food stamp program employment and training program with its ~~FAIM~~ financial assistance employment and training program or may modify the rules and requirements of the food stamp program employment and training program as necessary to make them consistent with those of the employment and training

demonstration project."

Section 16. Section 53-2-904, MCA, is amended to read:

"53-2-904. Income and resource exclusions -- FAIM participants. In accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may by rule establish special income and resource exclusions to be applied to participants of the FAIM project in determining their eligibility for food stamps and in determining the benefit amount. ~~Exclusions that may be established include but are not limited to exclusions for one-time only cash payments for special employment-related needs as provided in 53-4-603 in determining the recipients' eligibility for food stamps and determining the benefit amount.~~"

Section 17. Section 53-2-1103, MCA, is amended to read:

"53-2-1103. Definitions. For the purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Economically disadvantaged person" has the same meaning as provided in section 4 of the Job Training Partnership Act (29 U.S.C. 1503).

(2) "Job Training Partnership Act" means the federal Job Training Partnership Act, Public Law 97-300 (29 U.S.C. 1501, et seq.), as amended.

(3) "Job training plan" means the plan for providing services and training in a service delivery area, as required in 53-2-1107.

(4) "Program" means the program created by 53-2-1104 to implement the provisions of Title II-A of the Job Training Partnership Act.

(5) "Program year" means the fiscal year beginning on July 1 of the year for which an appropriation is made for the program established under this part, as provided in section 161 of the Job Training Partnership Act (29 U.S.C. 1571).

(6) "Public assistance program" means the state program ~~of FAIM~~ that provides financial assistance, as defined in 53-2-902.

(7) "Service delivery area" means an area designated as provided in section 101 of the Job Training Partnership Act (29 U.S.C. 1511)."

Section 18. Section 53-4-201, MCA, is amended to read:

"53-4-201. Definitions. As used in part 6 and this part, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

(2) (a) "Dependent child", for public assistance purposes, means:

(i) a child under 18 years of age; or

(ii) a person under 19 years of age who is a student, as defined by the department by rule.

(b) The person described in subsection (2)(a)(i) or (2)(a)(ii) must be living with a specified caretaker relative, as defined by the department by rule.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(3) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

~~(5)~~(4) "Family" means a group of people who live with a dependent child, each of whom is related to the dependent child by blood, marriage, or adoption or by law, such as:

(a) a parent, including a natural or adoptive parent, a stepparent, or a person considered by law to be a parent in the case of a child conceived by artificial insemination; or

(b) a sibling.

~~(6)~~(5) "Federal poverty level" means the measure of indigence established annually by the U.S. office of management and budget.

(6) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(7) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

~~(7)~~(8) "Public assistance" or "assistance" means a type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

~~(8)~~(9) "Specified caretaker relative" means a person within a degree of kinship to the dependent child, as specified by department rule, who lives with the child and exercises care and control over the child.

~~(9)~~(10) "State plan" means the policies and procedures governing the state of Montana's FAIM ~~financial assistance program~~ project and other programs funded by temporary assistance for needy families. It is prepared by the department and certified by the federal agency that provides funding for those programs.

~~(10)~~(11) "Temporary assistance for needy families" means the federal block grant ~~that funds FAIM financial assistance and other programs to strengthen and preserve families~~ established pursuant to ~~Title IV of the Social Security Act,~~ 42 U.S.C. 601, et seq.~~, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.~~"

Section 19. Section 53-4-202, MCA, is amended to read:

"**53-4-202. ~~FAIM financial~~ Financial assistance to be in effect in all counties.** (1) It is ~~mandatory and~~ required that the state plan and programs described in the state plan must be in effect in each county of the state.

(2) It is not required that the programs funded under ~~the~~ temporary assistance for needy families ~~block grant~~ be uniformly administered in each county of the state, provided that it is administered in accordance with all requirements of the state plan and federal law. The department may also administer demonstration programs pursuant to section 1115 of the Social Security Act, 42 U.S.C. 1315, or any other provision of that act that permits the states to administer experimental, pilot, or demonstration projects.

(3) An enrolled member of an Indian tribe participating in a program that is funded, at least in part, by ~~the~~ temporary assistance for needy families ~~block grant administered by the state of Montana~~ must be subject to the same rules, policies, and requirements as all other applicants for and recipients of benefits funded by ~~the~~ temporary assistance for needy families ~~block grant~~ unless an exception is expressly granted by federal law."

Section 20. Section 53-4-212, MCA, is amended to read:

"**53-4-212. Department to make rules.** (1) The department shall make rules and take action as necessary or desirable for the administration of ~~the FAIM financial~~ public assistance ~~program and other~~ programs ~~funded under the temporary assistance for needy families block grant~~.

(2) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, ~~and~~ methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives ~~participating in the community services program~~, including cooperation with assessments, the number of hours of ~~community service work~~ participation required for each ~~per~~ month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for ~~FAIM project~~ financial assistance ~~participants~~ recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) ~~maximum amounts of one-time only cash payments for special employment-related needs and the length of time that a family is required to remain off cash assistance after a payment is received~~ eligibility criteria and participation requirements for nonfinancial assistance recipients;

~~(h) exemptions from time limits in pathways and the community services program;~~

~~(i)~~(h) terms of ineligibility or sanctions against a specified caretaker ~~relative's~~ relative or other family ~~member's ineligibility for assistance because of failure~~ member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

~~(j)~~(i) requirements, if any, for participation in ~~and exemptions from participation in and procedures and policies of~~ the employment and training demonstration project;

~~(k)~~(i) eligibility for and terms and conditions of extended ~~child care and~~ medical assistance benefits;

~~(l)~~(k) reporting requirements;

~~(m)~~(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the ~~program~~ rules or requirements of a public assistance program;

~~(n)~~(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on

hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

~~(o)~~(n) individuals who must be included as members of an assistance unit;

~~(p)~~(o) categories of aliens who may receive assistance, if any;

~~(q)~~(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

~~(r)~~(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

~~(s)~~(r) special eligibility or participation requirements applicable to teenage parents, if any; and

~~(t)~~(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued."

Section 21. Section 53-4-214, MCA, is amended to read:

"53-4-214. Distribution of copies of law and forms by department. The department shall have printed and shall distribute copies of this part to all ~~county welfare departments~~ local offices of public assistance and shall prescribe the form of and print and supply to the ~~county welfare department~~ local offices of public assistance blanks of applications, reports, and other forms that may be necessary in relation to the ~~FAIM financial assistance and other~~ administration of public assistance programs ~~funded under the temporary assistance for needy families block grant~~."

Section 22. Section 53-4-231, MCA, is amended to read:

"53-4-231. Eligibility. (1) Subject to the provisions of subsections (2) through (5), assistance may be granted under this part to:

(a) a dependent child;

(b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents of a dependent child who:

(i) enters into a family investment agreement, as provided for in 53-4-606, if required by the department; and

(ii) cooperates in all assessments and screening required by the department;

(c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;

(d) persons under 18 years of age who live in the home with a dependent child, including but not limited to siblings related to the dependent child by blood, marriage, or adoption or by law;

(e) a needy pregnant woman with no other children who is receiving payments. Payments may begin no earlier than the third month prior to the month in which the child is expected to be born.

(2) Persons who are not citizens of the United States are eligible for assistance only as provided in sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as codified in Title 8 of the United States Code.

(3) A person who, after August 22, 1996, has been convicted of a felony offense, an element of which involves the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. 802, is ineligible for public assistance unless the person:

(a) has satisfied all conditions of probation or parole, if any, associated with the felony conviction; and

(b) completes a chemical dependency assessment by a chemical dependency counselor approved by the department and based on the assessment:

(i) there is the absence of any current drug dependency; or

(ii) the person satisfactorily completes a course of treatment and all requirements recommended by the chemical dependency counselor.

~~(3)~~(4) The following are not eligible for assistance:

(a) persons who are receiving supplemental security income payments under the Social Security Act;

(b) an adult or a dependent child who is or is expected to be absent from the home of the specified caretaker relative continuously for a period of time prescribed by the department by rule;

(c) a specified caretaker relative who fails to comply with requirements for reporting the absence of a dependent child from the specified caretaker relative's home as prescribed by the department by rule;

(d) families in which the specified caretaker relative fails or refuses to assign child and medical support rights to the department or to cooperate in establishing paternity or obtaining child or medical support as required by the department by rule;

(e) families in which the specified caretaker relative or other adult household member, as specified

by the department by rule, fails or refuses to:

(i) cooperate in any required screening or assessment; or

(ii) enter into a family investment agreement required by the department under 53-4-606;

~~(e)~~(f) teenage parents who fail or refuse to attend secondary school or another training program as required by the department by rule;

~~(f)~~(g) teenage parents who are not living in an adult-supervised setting as defined by the department by rule;

~~(g)~~(h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608; and

~~(h)~~(i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~;~~. The ineligibility continues for a period of 10 years beginning on the date of conviction~~; and~~

~~(i) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)~~.

~~(4)~~(5) A family is not eligible for financial assistance if the family includes an adult who has received financial assistance in a program funded under ~~the~~ temporary assistance for needy families ~~block grant~~ in any state or states for 60 months or more, whether or not the months are consecutive, ~~except as provided by the department by rule in accordance with section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~ unless an exception is expressly granted by federal law.

~~(5)~~(6) This part may not be interpreted to entitle any individual or family to assistance under programs funded by ~~the~~ temporary assistance for needy families ~~block grant~~."

Section 23. Section 53-4-233, MCA, is amended to read:

"53-4-233. ~~Investigation of~~ Eligibility determination for applications. Whenever a ~~county department~~ local office of public assistance receives an application for assistance under this part, an ~~investigation~~ eligibility determination must be promptly made by the ~~county department~~ local office of public ~~welfare~~ assistance. Each applicant shall participate in any screening required by the department and must be informed of the applicant's right to a fair hearing and of the confidential nature of information

secured. Upon completion of an ~~investigation~~ eligibility determination and any required screening, aid must be furnished promptly to all eligible persons. Each applicant must receive written notice of the decision concerning the applicant's request for assistance."

Section 24. Section 53-4-241, MCA, is amended to read:

"53-4-241. Amount of assistance determined by department rules. The amount of ~~FAIM~~ financial assistance or nonfiancial assistance granted in any case must be determined according to the rules and standards of assistance established by the department."

Section 25. Section 53-4-246, MCA, is amended to read:

"53-4-246. (Temporary) County share of participation. Except for recipients who are enrolled members of an Indian tribe, for each recipient of cash assistance in the FAIM project, the county where the recipient resides shall reimburse the department 22.5% of the nonfederal share of the approved temporary assistance for needy families grant for the recipient. However, a county is not required to reimburse the department more for temporary assistance for needy families grants for 1 state fiscal year than the dollar amount that the county paid as its share of cash assistance and emergency assistance programs in 1996. For purposes of determining the nonfederal share, the federal share is considered to be equal to the federal medical assistance percentage paid to the states for medicaid benefits under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. (Terminates June 30, 2001--sec. 6, Ch. 341, L. 1999.)

53-4-246. (Effective July 1, 2001) County share of participation. Each county where the recipient of ~~FAIM~~ financial assistance resides shall reimburse the department in the amount equal to the percentage of the approved temporary assistance for needy families grants not paid with federal temporary assistance for needy families funds."

Section 26. Section 53-4-247, MCA, is amended to read:

"53-4-247. County liability when recipient moves to another county. A recipient of ~~FAIM~~ financial assistance who moves to another county in the state shall continue to receive assistance. The county that the recipient moves to must be charged by the department for the county share of assistance. The county that a recipient moves from shall notify the county that the recipient moves to."

Section 27. Section 53-4-602, MCA, is amended to read:

"53-4-602. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cash assistance" means monetary payments to a recipient of ~~FAIM~~ financial assistance to meet basic needs, such as shelter, utilities, clothing, and personal needs.

(2) "Child-care assistance" means payments to or on behalf of the specified caretaker relative of a dependent child to defray the cost of having a third party care for the child.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "FAIM project" means the families achieving independence in Montana project, including a ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered under the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315."

Section 28. Section 53-4-606, MCA, is amended to read:

"53-4-606. Requirements for eligibility -- family investment agreement. (1) Eligibility for ~~FAIM~~ financial assistance under the FAIM project with regard to income, resources, and all other factors of eligibility must be determined in accordance with the waivers granted by the U.S. secretary of health and human services under section 1115 of the Social Security Act, 42 U.S.C. 1315.

(2) (a) As a condition of eligibility for financial assistance ~~under pathways and the community services program~~, all specified caretaker relatives and other family members, as specified by the department by rule, shall enter into a family investment agreement with the department and shall comply with the terms of that agreement. ~~Entering into an agreement is not a condition of eligibility for the job supplement program.~~

(b) The family investment agreement must set forth the mutual obligations of the participant and the department to help the family achieve the goal of self-sufficiency. The agreement may contain provisions:

(i) regarding actions to be taken by the specified caretaker relative and by the department to secure child support;

(ii) requiring that the immunization and health-screening requirements of the early and periodic screening, diagnosis, and treatment program be met for all children in the family; ~~and~~

(iii) requiring the participant to cooperate in any assessments necessary to identify barriers to self-sufficiency and listing specific actions to be taken in order to eliminate any identified barriers; and

~~(iii)~~(iv) specifying other services and activities appropriate for the participant or family.

(c) ~~An individual who is required to enter into a family investment agreement and who~~ Families in which the specified caretaker relative or other adult household member, as specified by rule, fails or refuses to enter into a family investment agreement without good cause ~~to do so or fails without good cause to comply with the individual's obligations under the agreement is~~ are ineligible~~, as provided in 53-4-608,~~ for ~~FAIM~~ financial assistance.

(d) An individual who is required to enter into a family investment agreement and who refuses or fails, without good cause, to comply with the terms of the family investment agreement must be sanctioned in accordance with the rules and policies of the department.

~~(3) As a condition of eligibility for the community service program, a specified caretaker relative shall perform community service work as required by the department.~~"

Section 29. Section 53-4-611, MCA, is amended to read:

"**53-4-611. Child-care assistance.** ~~(1) In the job supplement program component of the FAIM project, the~~ The department may provide child-care assistance to all ~~single-parent~~ families receiving financial assistance if child care is necessary to allow the parent to engage in paid employment and if funding is available. Child-care assistance may~~, at the department's discretion,~~ be provided to ~~two-parent~~ families receiving financial assistance if child care is necessary to allow either or both parents to engage in ~~paid employment~~ the activities required by a family investment agreement under 53-4-606 and if funding is available.

~~(2) In the pathways component of the FAIM project, the department may provide child-care assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child-care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~

~~(3) In the community services program component of the FAIM project, the department may provide child-care assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~"

Section 30. Section 53-4-612, MCA, is amended to read:

"**53-4-612. Extended ~~child care and~~ medical assistance benefits.** A family receiving ~~FAIM~~ financial assistance ~~under a component of the FAIM project~~ that loses eligibility for assistance because of increased income ~~from any source~~ may receive extended medical assistance benefits if funding is available, provided that the family's income does not exceed a percentage of the federal poverty level specified by the department by rule~~, and may receive child-care assistance pursuant to 53-4-611 if funding is available~~."

Section 31. Section 53-4-613, MCA, is amended to read:

"**53-4-613. Employment and training program.** In cases in which the department determines that participation in the employment and training program would be appropriate for a ~~participant in pathways~~ recipient of financial assistance, the ~~participant~~ recipient may be required to participate in employment and training as one of the conditions of the ~~participant's~~ family investment agreement required under 53-4-606."

Section 32. Section 53-4-702, MCA, is amended to read:

"**53-4-702. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(2) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash payments, services, and noncash assistance.~~

~~(3)~~(2) "FAIM project" means the families achieving independence in Montana project as

established in 53-4-601.

(3) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(4) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(5) "Temporary assistance for needy families" means the block grant program established pursuant to 42 U.S.C. 601, et seq."

Section 33. Section 53-4-704, MCA, is amended to read:

"53-4-704. Placement of ~~FAIM~~ financial assistance recipients or food stamp program participants for purpose of training. (1) The department or a person designated by the department may place an individual receiving financial assistance or participating in the ~~FAIM project~~ food stamp program into a position of employment with a public or private entity for the purpose of training the individual in the knowledge and skills necessary for the individual to become successfully employed.

(2) The department may, pursuant to subsection (1), place an individual ~~participating in the FAIM project~~ into a position at a worksite only with the permission and assistance of the public or private entity at the worksite under a written training agreement between the department and the entity.

(3) The placement of an individual into a position at a public or private worksite pursuant to subsection (1) is only for the purpose of training the individual in employment knowledge and skills and is not for the purpose of providing paid employment for the individual. The placement may not supplant an existing employment position or another individual already employed at the worksite. Placement of the individual at the public or private worksite pursuant to subsection (1) should last no longer than is necessary to achieve the employment training purposes of the ~~FAIM project~~ program.

(4) The private or public entity where an individual is placed pursuant to subsection (1) may choose whether or not to later employ the individual after the conclusion of the individual's training."

Section 34. Section 53-4-705, MCA, is amended to read:

"53-4-705. Services and activities. Under the program provided for in 53-4-703, the department shall make available a broad range of services and activities to assist recipients of ~~FAIM~~ financial

assistance as specified by the department by rule."

Section 35. Section 53-4-706, MCA, is amended to read:

"53-4-706. Participation requirements. (1) Except as otherwise provided in this section, the department may require individuals to participate in the employment and training program as a condition of their eligibility for ~~FAIM~~ financial assistance.

(2) To the extent that the program is available and that state resources permit, the department shall require recipients of ~~FAIM~~ financial assistance ~~who are participating in the pathways component of the FAIM project~~ to participate in the program if the department determines that it is an appropriate activity for the recipient and includes participation as a condition of the recipient's family investment agreement as provided for in 53-4-606."

Section 36. Section 53-4-717, MCA, is amended to read:

"53-4-717. Sanctions. If an individual receiving ~~FAIM~~ financial assistance ~~under the FAIM project~~ is required to participate in the employment and training program as a condition of the individual's family investment agreement, as provided for in 53-4-606, and fails without good cause to participate, the individual must be sanctioned in accordance with rules established by the department. Except as required by federal law, a sanction may not include any restriction or termination of food stamps or medicaid coverage, and child care benefits may only be continued for employment-related activities required by the family investment agreement that the ~~FAIM~~ participant has signed that are to be performed during the sanction period. The department may establish rules to ensure that individuals who participate in good faith are sanctioned properly and avail themselves of additional case management services to ensure compliance with the family investment agreement."

Section 37. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended. The department of public health and human services shall administer

the Montana medicaid program.

(2) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department; and

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2).

(3) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 2;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(o) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

(p) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) Services for persons qualifying for medicaid under the medically needy category of assistance as described in 53-6-131 may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (2) and (3) to persons qualifying for medicaid under the medically needy category of assistance.

(5) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to ~~the~~ a program ~~of FAIM~~ providing financial assistance, as defined in ~~53-4-702~~ 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsections (2)(a) through (2)(l) but may include those optional services listed in subsections (3)(a) through (3)(p) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~ and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the

Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(6) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(7) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(8) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(9) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(10) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(11) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(12) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted under this chapter.

(13) Medicaid payment for personal-care facilities may not be made unless the department certifies to the director of the governor's office of budget and program planning that payment to this type of provider would, in the aggregate, be a cost-effective alternative to services otherwise provided."

Section 38. Section 53-6-113, MCA, is amended to read:

"**53-6-113. Department to adopt rules.** (1) The department of public health and human services shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and ~~as~~ that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules ~~as~~ that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish

the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed-care systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) The department shall establish by rule income limits for eligibility for extended medical

assistance of persons receiving benefits from ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, ~~as participants of the FAIM project~~ who lose eligibility because of increased income, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 39. Section 53-6-131, MCA, is amended to read:

"53-6-131. Eligibility requirements. (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits ~~or receive from FAIM financial assistance, as defined in 53-4-702, benefits under Title IV of the federal Social Security Act, 42 U.S.C. 601, et seq~~.

(b) The person would be eligible for assistance under ~~a~~ the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under ~~one of~~ the ~~programs~~ program in subsection (1)(a).

(d) The person is under 19 years of age and meets the conditions of eligibility in the state plan, as defined in 53-4-201, other than with respect to age and school attendance.

(e) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

(f) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(e) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the

medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

(g) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and to all adult recipients of medical assistance only who are covered under a group related to the program of ~~FAIM~~ financial assistance. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social

Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services. The standards for eligibility for mental health services may provide for eligibility for households not eligible for medicaid with family income that does not exceed 200% of the federal poverty threshold or that does not exceed a lesser amount determined in the discretion of the department. The department may by rule specify under what circumstances deductions for medical expenses should be used to reduce countable family income in determining eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged recipients for services. The fees, premiums, or copayments may vary according to family income."

Section 40. Section 53-6-132, MCA, is amended to read:

"53-6-132. Application for assistance -- exception. (1) ~~Except as provided in~~ Subject to subsection (2), application for assistance under this part ~~must~~ may be made ~~to the~~ in any local office of ~~the county department in the county in which the person is residing~~ public assistance. The application must be presented in the manner and on the form prescribed by the department of public health and human services. All individuals wishing to apply must have the opportunity to do so.

(2) Notwithstanding the provisions of subsection (1), the department may designate an entity

other than the ~~county department~~ local office of public assistance to determine eligibility for medicaid managed care services."

Section 41. Section 53-6-134, MCA, is amended to read:

"53-6-134. Extension of eligibility for medical assistance to persons terminated from ~~FAIM~~ financial assistance. (1) In providing for the extension of eligibility for medical assistance under subsection (2), the department may provide for health insurance or other health coverage in accordance with subsections 1925(a)(4)(B) and 1925(b)(4)(C) of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6(a)(4)(B) and 42 U.S.C. 1396r-6(b)(4)(C), and may exercise the other options contained in section 1925 of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6, regarding the provision of medical assistance.

(2) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may provide extended eligibility for medical assistance for a period of time established by the department by rule for persons receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, ~~under the job supplement program, pathways, or community services program components of the FAIM project described in 53-4-603~~ who lose eligibility because of increased income from any source ~~or because of exhausting time-limited earned income disregards~~, provided that the family's income does not exceed a percentage of the federal poverty level established by the department by rule. The department, in exercising its discretion to establish income standards and duration of extended medical assistance by rule, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 42. Section 53-24-106, MCA, is amended to read:

"53-24-106. Criminal laws limitation. (1) ~~No~~ A county, municipality, or other political subdivision may not adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) ~~Nothing in this~~ This section ~~affects~~ does not affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, a boat, machinery, or other equipment or regarding the sale, purchase,

dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(3) This section does not prevent the department from imposing a sanction on or denying eligibility to applicants for or recipients of public assistance who fail or refuse to comply with all eligibility criteria and program requirements."

NEW SECTION. **Section 43. Coordination instruction.** If ___Bill No.___ [LC 428] is not passed and approved, then all references in [this act] to local offices of public assistance are changed to references to county welfare offices.

NEW SECTION. **Section 44. Repealer.** Sections 53-4-247, 53-4-603, 53-4-607, 53-4-608, and 53-4-701, MCA, are repealed.

NEW SECTION. **Section 45. Effective date.** [This act] is effective July 1, 2001.

- END -

FISCAL NOTE

Bill #: SB0077

Title: Revise laws governing public assistance

Primary Sponsor: Don Hargrove

Status: As Introduced

Sponsor signature — Date

Chuck Swysgood, Budget Director — 1/5/01 Date

Fiscal Summary

	FY2002 Difference	FY2003 Difference
Net Impact on General Fund Balance:	**$0**	**$0**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact		X	Technical Concerns
X		Included in the Executive Budget		X	Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached		X	Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

1. This bill provides the statutory modifications to support the Department of Public Health and Human Services new proposal number 201 in the executive budget.
2. This bill restructures certain types of financial assistance. The financial impact of this restructuring is included in the Executive Budget (HB 2).
3. There is no fiscal impact to DPHHS as a result of this bill.

SB 77

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP,** on January 22, 2001 at 3 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Jerry O'Neil (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 207, 1/16/2001 SB 77, 1/16/2001
Executive Action:

HEARING ON SB 207

Sponsor: SEN. BOB KEENAN, SB 38, Bigfork

Proponents: Leslie Garvin, Attorney, Board of Visitors
Brian Garrity, Mental Health Ombudsman
SEN. TOM BECK, SD 28, Deer Lodge

HEARING ON SB 77

Sponsor: SEN. DON HARGROVE, SD 16, Belgrade

Proponents: Hank Hudson, Department of Public Health and Human Services (DPHHS)
Christine Amundson, Montana Chapter of the National Association of Social Workers
Sherry Meador, Court Assessment Program

Opponents: Wendy Young, Working for Equality and Economic Liberation (WEEL)
Brianna Kirsten, Montana Peoples Action

Opening Statement by Sponsor:

SEN. HARGROVE, SD 16, Belgrade, introduced SB 77, saying this bill has often been called FAME 2, the statutory progression of the welfare program in Montana. This bill gets rid of the acronym FAIM, Family Achieving Independence in Montana. This program has been pretty successful. This bill changes the name from FAIM to TANF (Temporary Assistance for Needy Families). This bill allows for cash and food stamps for persons convicted of drug offenses, as long as they remain on probation and in treatment.

Proponents' Testimony:

Hank Hudson, DPHHS, passed out an overview of the proposed enhancements to welfare reform **EXHIBIT(phs17a03).**

{Tape : 1; Side : B; Approx. Time Counter : 0}

FAIM phase 2 will create a program to continue to work with people to get them out of poverty. Welfare reform has time limits, you can only receive public assistance for 16 months. So we need to assist these folks to get them into a higher paying jobs, by offering job training.

This bill is part of a larger welfare reform bill we are taking to the Legislature, and is essential to move into the next phase of welfare reform.

Sherry Meador, Court Assessment Program, our program is working with Billings courts and developed the Family Drug Court. We need to address the convicted (drug) felons, who have children and look at the holistic approach the court is trying to

establish. We ask you to look at this program for felons who have children.

Christine Amundson, Montana Chapter of the National Association of Social Workers, handed out a copy of her testimony **EXHIBIT(phs17a04).**

Opponents' Testimony:

Wendy Young, WEEL, represents a group of low income families, who would be affected by this bill. These families are currently on FAIM, or have left FAIM, or waiver between work and public assistance. She is concerned about the assessments and evaluations of the people. What are these - are they drug tests - are they mental health tests? What does the department mean? The other concern was non-assistance and other bills that are looking at the same money.

Brianna Kirsten, Montana Peoples Action, represents 5500 low income and working families in Montana. She, too, is concerned about the area of non-assistance. This bill lacks specific guidelines as to where the money will go.

Questions from Committee Members and Responses:

SEN. FRANKLIN asked for clarification of who is competing for this pot of money. **Ms. Young** said by passing this bill, you will think you have covered all non-assistance needs; but this bill doesn't deal with things like child support, education, and housing.

SEN. CHRISTIAENS asked about the total amount of TANF dollars available. **Mr. Hudson** stated they had identified $29 million dollars as part of our expenditures for FAIM phase 2. To operate our current program they have now subtracted $10 million from the $29 million. Now they were dealing with a considerably smaller amount of money for FAIM phase 2. **SEN. CHRISTIAENS** asked for a sheet to explaining the funding.

{Tape : 2; Side : A; Approx. Time Counter : 0}

SEN. CHRISTIAENS told the committee they have two tribes who operate their own funding. Would the tribes get a portion of the additional money we are now receiving? **Mr. Hudson** said the money was awarded to the state after the tribes had left the state system, therefore, they were not eligible.

SEN. CHRISTIAENS had a bill that would allow $2 million of the TANF funds to go to the Montana Board of Housing, available to those below the 200% poverty line. He wondered if the Board of Housing be subject to the same rules and regulations that deal with TANF and would there be waivers. **Mr. Hudson** said they are no waivers, the would be regulations are such - you can't construct with the money and you can't buy real estate, but you can assist with rent payments, and you can assist with closing costs.

SEN. CHRISTIAENS asked what is defined in 21 USC 802. **Mr. Hudson** says anyone convicted of a drug related felony, after August of 1996, is ineligible for block grants or food stamps, but state legislatures have the power to change this.

SEN. CHRISTIAENS ASKED how the drug courts use this money. **Ms. Meador** says currently family drug court is not funded by block grants. We are trying to coordinate resources to find alternative sources for funding for family drug court. **SEN. CHRISTIAENS** asked if this would pay for drug treatment. **Ms. Meador** it can be used as a second source of treatment.

SEN. FRANKLIN asked to look at page 26 line 30 -"cooperates in all assessments and screening required by the department" and have that explained. **Mr. Hudson** said this bill would allow the department to have the authority to require people to cooperate when they need to be assessed and screened.

SEN. STONINGTON asked if there is a place in statute where assessment is defined. **Mr. Hudson** said he would bring in a definition of assessment.

SEN. O'NEIL inquired about a change from county offices to local offices, and if it would create more or less offices. **Mr. Hudson** it will probably result in less administrative infrastructure. He hoped to streamline the operation.

SEN. JOHNSON what is the difference between financial assistance 45 CFR 260.31(a) and nonfinancial assistance 45 CFR 260.31 (b). **Mr. Hudson** said those are the federal definitions.

{Tape : 2; Side : B; Approx. Time Counter : 0}
Closing by Sponsor:

Sen. Hargrove advised the members they might want to have **Mr. Hudson** here when they do executive action. This bill will be enabling legislation that will be with us for a long time.

ADJOURNMENT

Adjournment: 4:45 P.M.

SEN. AL BISHOP, Chairman

JEANNE FORRESTER, Secretary

AB/JF

EXHIBIT(phs17aad)

EXHIBIT NO. 3
DATE 1-22-01
BILL NO. SB77

FAIM PHASE II

An Overview of the Proposed Enhancements to Welfare Reform In the State of Montana

In preparation for the 2001 Legislature

(Revised 12/6/00 based on public comment received August through November 2000)

Montanans are proud of the success of their 1996 welfare reform initiative entitled Families Achieving Independence in Montana or FAIM. Since FAIM was implemented, caseloads have declined from a high of 11,238 in February 1996 to a low of 4,524 in June 2000, a 59.75% reduction in the number of families needing cash assistance. Caseload reduction is not, however, the best indicator of a successful program. Earnings of families leaving the program totaled $298.2 million for the period of March 1996 through December 1999. Significant increases in the use of subsidized child care services indicate more families are working and advancing in employment. More employers are willing to train and hire FAIM recipients than ever before. At the national level, there is continued support for state innovations and progress toward the "next steps" of welfare reform.

In keeping with Governor Racicot's 1993 Executive Order that established the original Governor's Welfare Reform Advisory Council, Montana has created a program that "fosters fundamental American values relating to work, family, individual responsibility and self-sufficiency." The FAIM program has been able to accomplish this goal in many ways, but must now evaluate those important "next steps" in helping families to continue their path out of poverty.

Following FAIM's implementation in 1996, Congress passed a national version of welfare reform called the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Within this Act, Aid to Families with Dependent Children (AFDC) was replaced with a block grant funding structure called Temporary Assistance for Needy Families (TANF) that included broad flexibility for states to design programs to best meet the needs of their poorest populations. Because FAIM was largely defined by state statute, Montana's hands have been tied over the past three years from taking advantage of the wider flexibility that TANF affords.

Recognizing that the 2001 Legislature would have an opportunity to revise and re-craft Montana's welfare reform program, the Department of Public Health and Human Services launched FAIM Phase II with a series of public meetings and subsequent focus groups to obtain input from a broad spectrum of interest groups and to begin identifying the programmatic changes that would need to be made to ensure the continued success of welfare reform. Twenty-five public meetings were held and eleven focus groups were identified to work on specific issues brought to light in the public meetings. One hundred sixty-nine people participated in the focus groups including advocates, FAIM participants, tribal members, service providers, legislators, and the general public. The onset of these meetings and subsequent focus groups' work and recommended program design became known as FAIM Phase II.

Four major themes developed throughout the FAIM Phase II public input process:

-What do low-income working families need to maintain employment?
-What do families on cash assistance need to move toward self-support?
-What do families leaving cash assistance need to remain working?
-What do families need as our "customers"?

Below is a summary of specific initiatives that will form the foundation of FAIM Phase II.

I. Better Alternatives to Cash Assistance for Low-Income Working Families

- Work supports and supportive services to keep people on the job
- "Fill-the-Gap Child Support" for missed payments
- Employment case management services

II. Better Assessment and Individualized Services to Families on Cash Assistance

- 1-3 month up-front assessment without time clock or work participation requirements
- Community referrals and treatment to address barriers earlier in the program
- Higher earned income disregards and disregard of certain income
- Intensive case management, Family Support Team, and supportive services throughout the 60 months of eligibility
- Child Support pass-through payments
- Revised sanction policies and pre-sanction assessments and intervention
- Assistance with vehicle ownership
- Benefits for reformed drug felons
- Identification of the 20% who are exempt from the 60 months due to hardship

III. Better Support for Families Leaving Assistance

- Transitional case management and supportive services after cash assistance closure
- One month "work support" payment after case closure
- Case management to assist families who are relocating to another area
- Individual Development Account pilot

IV. Better Service Through a Customer Focus

- One-stop approach and co-locations with employment services, child support, child care
- Out-stationing and outreach to deliver services in alternate locations
- Customer service representatives to help with paperwork and questions
- Cultural awareness and customer service training
- Clearer, more understandable communication, resource guides, and paperwork

[redacted]

I. [redacted]

FAIM Now: The Job Supplement Program helps to divert families from cash assistance by offering assistance with Child Support Enforcement, Child Care, Food Stamps and Medicaid, but provides only a once-in-a-lifetime emergency payment so families often return to cash assistance because of a crisis.

LESSONS LEARNED: Diversion options are limited and individuals may need assistance with more than a once-in-a-lifetime payment to overcome a crisis, keep the family working or help the family avoid entering the public assistance system. Families report they often have to quit a job or turn down a raise in order to remain eligible for assistance to meet their needs.

PUBLIC COMMENTS: Services should be available to working low-income families who are not receiving cash assistance. This, in turn, should lead to those families having a stronger ability to remain self-supporting by maintaining employment, and an ability to avoid the public assistance system altogether.

PHASE II SOLUTIONS:

- Create additional diversion and work supports to help families become more stable. Provide supportive services to keep families working and help them to overcome a crisis that may cause them to lose employment. (5)*
- Establish a Fill-the-Gap Child Support Program for full-time working individuals up to 150% of poverty. There must be a regular child support payment history and a full-time working custodial parent to qualify for this program. (5)
- Offer employment case management services to assist families in resolving issues or a crisis that may be jeopardizing their employment.

*The numbers following the initiatives correspond with the numbers on the FAIM Phase II Fiscal Impact spreadsheet at the end of this document.

II. [redacted]

FAIM Now: A cursory assessment of barriers to employment is done, and then immediate engagement in work activities is required. Only limited supportive services are provided. The 60-month time clock starts immediately. Intensive case management services are only emphasized for the first two years, and community service work is required during the last three years. Income disregards are lower in the Community Services Program. Sanctions are imposed for non-compliance with program requirements--sanctions are cumulative and there is no opportunity to end the sanction prior to the penalty period (of up to one year) being served. Minimal assistance with transportation is available. Felons convicted of a drug-related offense are banned forever from receiving assistance. The 20% hardship exemption from the time clock has not been defined.

LESSONS LEARNED: Serious barriers to employment and family stability are not discovered until after months or years on assistance. Immediate work requirements and time clock pressures make it difficult for families to deal with the more serious barriers to employment that may not be identified through an initial assessment. Intensive case management services and supportive services are needed for a longer period of time. Families who experience multiple sanctions often have hidden barriers to employment or family stability that are not addressed. Lower income disregards in the Community Services Program make it difficult for families to continue getting the assistance they need. A decrease in the grant amount with certain types of earnings discourages families from taking jobs, taking raises, or participating in a training program with a training wage. Without reliable vehicles, individuals cannot accept and maintain employment. Reformed felons often need public assistance supports after completing a prison term or a rehabilitation program. It is time to start establishing identifying criteria for those persons who will qualify for the 20% hardship exemption from the 60-month time clock.

PUBLIC COMMENTS: Montana should continue to provide intensive case management services and other supports throughout the 60-month time period, certain types of income should be disregarded, vehicle ownership and accumulation of assets should be supported. The current sanction policy does not work well, as evidenced by the number of third, fourth and even fifth sanctions. Families cannot choose to comply and regain eligibility before the penalty period is served, so lose precious months off their time clock and

valuable opportunities to work toward self-support. Montana should now plan for the 20% hardship exemption and identify who will qualify.

PHASE II SOLUTIONS:

- Conduct a one-to-three month up-front assessment period for those with complex or serious barriers to employment, during which time the 60-month federal time clock does not tick and work activities are not required. A "Family Support Team" of professionals including an employment expert and a health/social professional will do the assessment with the participant's involvement. Assistance in obtaining treatment and/or other community services to overcome barriers to employment or family stability will be provided. (1)

- Remove the distinction between Pathways, Community Services Program and Job Supplement Program (JSP). Instead, provide the higher earned income disregards to all participants, disregard certain types of income such as income from sheltered workshops and on-the-job training and continue intensive case management throughout the 60 months. (4)

- Provide intensive case management services and family support throughout the 60-month period, and funding to support local needs. (10)

- Provide a pass-through of child support payments to allow families to keep the entire amount of child support collections. (7)

- Revise Montana's sanction policy to include a $50 reduction in the first month of non-compliance, a 50% reduction in the grant the second month, and case closure in the third month. Sanctions will end upon compliance with program requirements. Referrals to the Family Support Team will be made in an attempt to resolve the barriers causing families to receive multiple sanctions. (2)

- Create vehicle ownership programs. (3)

- Opt out of the "drug felon provision." Allow ex-felons, under certain conditions, to receive benefits.

- Identify the 20% hardship exemption category early in 2001. Families approaching the 60-month time limit will receive an assessment and services provided to them will be reviewed. Additional intensive service provision will be offered.

III. Support for Families Leaving Cash Assistance

FAIM Now: No cash payments to Job Supplement Program (JSP) recipients or the working poor except for a once-in-a-lifetime lump-sum employment-related payment, no follow-up or supportive services once the case is closed, no incentives to encourage families to accumulate certain employment-related assets. Increased earnings cause a decrease in the grant amount.

LESSONS LEARNED: Families teeter back and forth onto cash assistance whenever an emergency arises. They need to quit employment or refuse a raise in order to guard themselves from losing eligibility for any financial safety net. Without considerable savings, families cannot purchase homes or businesses, nor can family members attend college to increase their opportunities for self-support.

PUBLIC COMMENTS: Create a transitional "work support" program for families leaving cash assistance.

PHASE II SOLUTIONS:

- Replace JSP and the current one-time employment-related payments with expanded supportive services for both crisis situations and ongoing employment-related needs. Families must be at or below 150% of poverty to access payments. (5)
- Provide transitional case management services for up to a year after cash assistance closes.
- To reduce the "cliff effect" when someone goes to work and immediately loses cash assistance, provide one additional month's grant as a "work support payment." This payment will not count against the 60-month time limit. (5)
- When people move, provide more case management to help them prepare for and make the transition. This is especially important with Native Americans moving to or from the reservation. (10)
- Establish a pilot Individual Development Account program. These accounts may be used for first-time home purchases, post secondary education, or business development, and are not countable assets when determining eligibility for FAIM. (6)

IV. [redacted]

FAIM Now: Offices have shifted from a focus on providing a monthly maintenance check to helping families achieve self-supporting status. Consequently, although cash assistance caseloads have declined, the amount of time each case requires has increased considerably. Communities have coordinated some services to afford better access for recipients.

LESSONS LEARNED: More can and must be done to accommodate the needs of working individuals and provide services as efficiently as possible.

PUBLIC COMMENTS: Public Assistance Offices should be more professional in both the way they look and in the way they treat people. Recipients should not have to visit numerous different locations to receive the help they need. Services should go to where the people being served are, rather than expecting those people to travel great distances for assistance. Staff should have adequate time and training to provide high-quality case coordination services.

PHASE II SOLUTIONS:

- Strive for collaboration between providers and a "one-stop" work-related services approach; co-locate with employment services, child support, child care and other providers, where appropriate.

- Encourage and fund out-stationing and outreach efforts to take services where they are most needed. Partner with health-related agencies, schools, and other community providers. (10)

- Establish customer service representatives in larger county Offices of Public Assistance, creatively restructure staffing patterns and workload distribution so adequate time may be spent on case coordination duties. Develop and utilize a statewide customer satisfaction survey.

- Require ongoing cultural awareness and case coordination training for all staff.

- Support the Workforce Investment Act online resource guide. Along with this, develop a hard copy resource pamphlet of public assistance programs.

- Ensure that all communication is clear and understandable and reduce the amount of paperwork applicants and recipients are required to complete.

General program changes that will be made include:

- Standardizing the criteria for determining when post-secondary education (PSE) can be considered as an allowable work activity. PSE beyond the bachelor's level will not be approved. Individuals must also be employed 15 hours per week for PSE to be included as a work activity.

- Providing additional funding for Montana Tribal Native Employment Works (NEW) programs that contract to serve additional FAIM participants. Eligible Native Americans on reservations are referred to Tribal NEW. Tribal NEW is not adequately funded to serve everyone who is referred. Therefore, many Native Americans on reservations may not be receiving the employment and training services they need. (8)

- Increasing caretaker relative grants to encourage relatives to care for children in kinship situations. (9)

- Amending the current "household member" definition to allow a family member to continue receiving cash assistance while out of the home for a Family Investment Agreement activity.

- Establishing a state-funded Maintenance of Effort safety net program should there be more than 20% of the caseload exceeding 60 months and meeting the criteria for the hardship category. This program will provide one set grant amount, regardless of family size. Periodic assessment of these families will be conducted and every effort will be made to help them become employable. There are no exemptions to the federal time limit other than those specified in federal law. (11)

There is one additional consideration that is central to Phase II but does not fit neatly into any of the categories listed above. Welfare reform can only be successful when well-planned, long-term economic development takes place. Long-term economic development involves creation of a favorable business environment; promotion of industries that provide jobs and may also meet the communities' basic life needs (such as housing, child care, transportation, etc.); and development and effective utilization of a trained workforce.

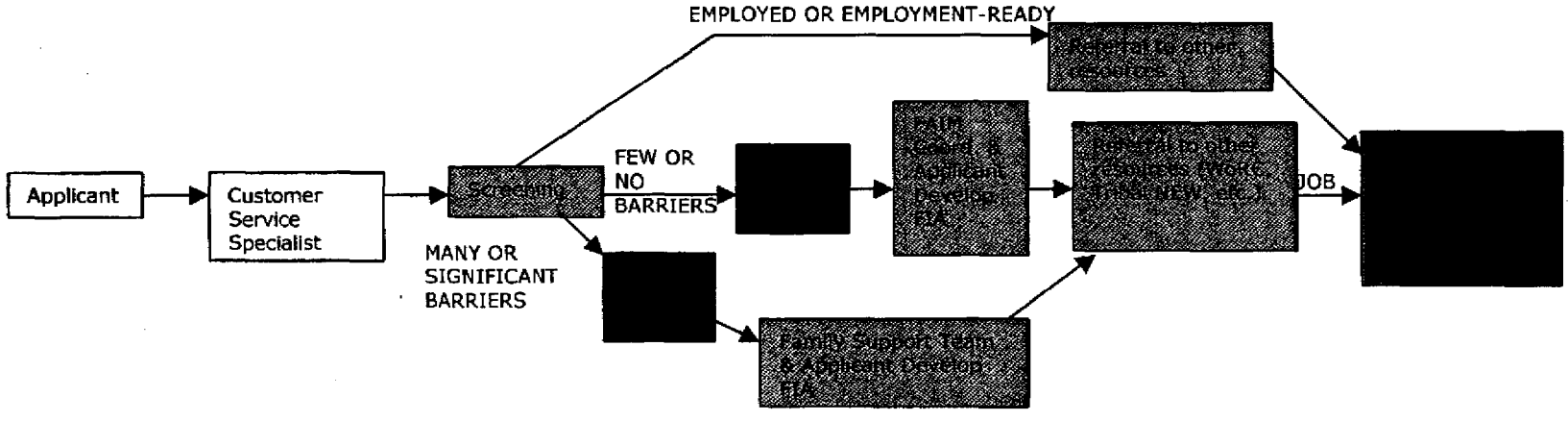
[redacted]

(1) Typographical, formatting, and structural errors throughout the document were corrected.
(2) In the second paragraph of the introduction, corrected text to say that the Executive Order creating the Governor's Welfare Reform Advisory Council was issued in 1993 (not 1995).
(3) Added "Family Support Team" to fourth bullet in section II on page 2.
(4) Added "case management to assist families who are relocating to another area" to section III on page 2.
(5) Revised language under "FAIM Now" on page 4 to recognize that although many FAIM Coordinators provide intensive services throughout all 60 months of cash assistance receipt, current policy only mandates such services for the first two years.
(6) Amended sanction language in bullet 5 on page 5 to reflect the more general nature of the Phase II proposal. Specific policies are dependent upon legal, federal, state, and system requirements so will be addressed in Administrative Rules.
(7) Removed language in the first bullet on page 6 limiting payments to up to $500 twice per year. This reflects the more general nature of the Phase II proposal. Specific policies are dependent upon legal, federal, state, and system requirements so will be addressed in Administrative Rules.
(8) Eliminated bullet 4 on page 6, as it was duplicative of bullet 1.
(9) Added language under "FAIM Now" and "Public Comments" on page 7 to reflect that even though cash assistance caseloads have declined, the amount of time spent per case has increased dramatically as a result of welfare reform requirements.
(10) Revised the wording of the fifth bullet on page 8 to clarify that the safety net program is to be used should more than 20% of those reaching 60 months on cash assistance meet the hardship exemption criteria.

[redacted]

A new FAIM Phase II Fiscal Impact chart is attached that has been adjusted based on final year-end expenditures for FY2000 and projected future TANF Block Grant amounts. The WoRC Alternative proposed line item was moved from federal TANF funds to general fund Maintenance of Effort (MOE) for consistency to accompany other WoRC program expenditures that are funded from MOE and to assure that the state meets its MOE in future years.

FAIM PHASE II FLOWCHART



KEY:

FAIM – Families Achieving Independence in Montana (state's welfare reform project)
FAIM Coordinator – frontline case coordinator in Offices of Public Assistance
FIA – Family Investment Agreement (documents negotiated work readiness and work activities)
WoRC – Work Readiness Component (contracted providers of intensive employment preparatory services)
TANF – Temporary Assistance for Needy Families (federal block grant which funds cash assistance)
Tribal NEW – Native Employment Works (tribal employment and training providers)

FAIM Phase II Fiscal Impact

	FY 2002	FY 2003
Proposal Titles: Federal funds		
1) In-depth Assessment	$1,545,562	$1,545,562
2) Sanction Adjustments	677,735	677,735
3) Vehicle ownership	800,000	800,000
4) Eliminate CSP	125,000	125,000
5) Non-assistance for Working families	4,741,971	4,741,971
6) Individual Development Accounts	180,161	220,161
7) Child Support Pass-Through	0	1,250,000
8) WoRC Alternative	**MOE**	**MOE**
9) Increase Caretaker Relative Grants	2,473,704	2,473,704
10) Intensive Family Supportive Services and Local Needs	1,723,283	1,723,283
EBT for Cash Assistance	0	500,000
TEAMS Reprocurement	2,000,000	1,000,000
Total Cost of FAIM Phase II	$14,267,416	$15,057,416
General Fund (not new money already in base)		
11) Benefits Passed 60 Months (Separate State Program)	480,600	480,600
8) WoRC Alternative	340,000	340,000
Total Expenditures	$15,088,016	$15,878,016

THE AMAZING EVOLUTION OF WELFARE REFORM

In just five short years, Montana's public assistance system has been dramatically transformed. Cash assistance has gone from an ongoing entitlement to an employment-focused, time-limited program helping families move toward self-support. Several important indicators suggest the changes are having the desired effect

Preliminary findings from the contracted Abt Associates evaluation show a dramatic reduction in Montana's welfare rolls since 1996, mainly due to employment. They also show that, even on Indian reservations where unemployment is high, the percent of cash assistance recipients who work and their hourly wage is comparable to off-reservation data.(1) Additional evaluation information should be available in April.

On December 16, the United States Department of Health and Human Services announced Montana was one of 28 states to share in a $200 million high performance bonus. These bonuses were created to reward superior performance in four welfare reform categories welfare reform. Montana will receive $2,276,700 for outstanding performance in two categories, "job entry rate" and "improvement in job entry rate." Only nine states qualified for an award in more than one category.

Montana has also met the federally mandated welfare reform work participation requirements every year since they took effect in 1996. By ensuring cash assistance recipients are engaging in productive, employment-focused activities, Montana guarantees federal Temporary Assistance to Needy Families block grant funds will continue to be available at their current level. More importantly, the participation activities help families overcome obstacles, find employment or other sources of income (such as child support or disability payments), and transition off time-limited cash assistance.

Although welfare reform appears to be headed down the right path, improvements can always be made. Toward this end, DPHHS created FAIM Phase II, the continued evolution of welfare reform. With input from individuals and focus groups across Montana, a Phase II proposal was developed and is being presented to the 2001 Legislature. The four main categories of change are: better alternatives to cash assistance for low-income working families, better assessment and individualized services to families on cash assistance, better support for families leaving assistance, and better service through a customer focus. Along with the DPHHS plan, Legislators will be asked to consider numerous other possible welfare reform innovations being proposed by advocacy and other organizations.

Through dialogues and debates over the next few months, the future of public assistance in Montana may be shaped and reshaped. One thing is clear, however...welfare reform can and will continue to evolve to better suit the needs of Montana's low income families.

(1) Preliminary Findings of FAIM Evaluation in Montana, Abt Associates, December 2000

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 1-22-00
BILL NO SB77

January 22, 2001

Chairman Bishop, Committee members and guests, my name is Chistine Amundson from Helena. I am currently a senior in Social Work at Carroll College and a student intern and member of the Montana Chapter of the National Association of Social Workers. It is in these capacities and in accordance with the NASW Code of Ethics governing our profession that I hereby support the proposed revision of the laws governing public assistance contained in Senate Bill (SB) 77 sponsored by Senator Don Hargrove.

Section 6.04 of the NASW Code of Ethics states "Social Workers should engage in social and political action that seeks to ensure that all people have equal access to the resources, employment, services, and opportunities they require to meet their basic human needs and to develop fully. Social Workers should be aware of the impact of the political arena on practice and should advocate for changes in policy and legislation to improve social conditions in order to meet basic human needs and promote social justice." The proposed revisions in SB 77 attempt to bring social justice to the laws governing public assistance, especially Section 22 that revises 53-4-231 of the MCA. This section outlines the requirements for eligibility with the new subsection (3) allowing person convicted of a drug felony after August 22, 1996 eligibility only if they are in compliance with requirements that are even more stringent than the eligibility requirements (subsection (4) h – as stated in 53-4-231 of the MCA) imposed on other convicted felons of more serious offenses than drug possession.

While on the surface this proposed revision to the drug felon eligibility section of the laws governing public assistance seems to apply only to those making application for assistance, it does something even more important – it brings social justice to those persons even more oppressed by the former drug felon law – the children of these individuals. Children are the unseen and unheard victims of society's distaste for those receiving public assistance. These children have no control over their parent's economic, mental, physical, moral, or legal problems, however they are the ones that suffer the consequences. Therefore, let us remember that these proposed revisions in SB 77 will allow parents that are taking the appropriate steps to overcome their mistakes of the past in order to provide the basic human needs of their children so they might work towards improving the future of their family.

In conclusion, I urge the members of the Senate Public Health, Welfare, and Safety Committee to show your compassion and commitment to social justice to the children, parents, and all Montanans by voting for SB 77. Thank you for your time and consideration of this important legislation.

Respectfully submitted,

Christine R. Amundson

Christine R. Amundson

MONTANA SENATE
2001 LEGISLATURE
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

ROLL CALL DATE 1-22-01

NAME	PRESENT	ABSENT	EXCUSED
SEN. CHRIS CHRISTIAENS	X		
SEN. BOB DEPRATU			
SEN. EVE FRANKLIN	X		
SEN. DON HARGROVE	X		
SEN. DAN HARRINGTON	X		
SEN. ROYAL JOHNSON	X		
SEN. JERRY O'NEIL	X		
SEN. EMILY STONINGTON	X		
SEN. FRED THOMAS			X
SEN. DUANE GRIMES, VICE CHAIRMAN	X		
SEN. AL BISHOP, CHAIRMAN	X		

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DATE 1-22-01

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 207

SB 77

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
LeslieBGarvin	693-7037	BOV	207	✓	
Christine Amundson	449-6856		SB77	✓	
Brian Gaccidy	443-2433		207	✓	
Kyle Hatcher	733-6006	CCCS. In	207		✓
Kristi Hazen	442-7450	Rimrock/MASP	207		
Hank Hudson	444-5902	DPHHS	77	✓	
Charles McCarthy	442-4276	Mental Health Assoc of MT	207	✓	
Wendy Young	4950497	WEEL	77		✓
Sherry Meador	449-0622	Court Assessment Program	77	✓	

W.S. the Bill becom... Healt... Fac...

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-22-01

SENATE COMMITTEE ON Public Health

BILLS BEING HEARD TODAY: SB 207

SB 77

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
LeslieB Garvin	693-7031	BOV	207	✓	
Christine Amundson	449-6856		SB77	✓	
Brian Gaccidy	443-2433		207	✓	
Kyle Thatcher	723-6006	CCCS Inc	207		✓
Kristi Blazer	442-7480	Rockingham/MASP	207		
Hank Hudson	444-5902	DPHHS	77	✓	
Charles McCarthy	442-4276	Mental Health Assoc of NH	207	✓	
Wendy Young	4950497	NAMI	77		✓
Sherry Meador	449-0622	Court Assessment Program	77	✓	

Re: SB 77 - Bill does not meet health facility definition

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on January 26, 2001 at 3:10 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:
Sen. Al Bishop, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Jerry O'Neil (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 257, 1/18/2001; SB 171, 1/16/2001
Executive Action: SB 82; SB 77

HEARING ON SB 257

Sponsor: SEN. JOHN BOHLINGER, SD 7, BILLINGS

Proponents: Diann Mueller, Billings
Mick Wolff, Billings

CHRISTIAENS said he would work with **Ms. Fox** and prepare an amendment to clarify the intent of this bill.

Closing by Sponsor:

SEN. BOHLINGER said they were trying to preserve a special relationship for grandparents. He would also like the description be expanded to kinship care givers, which would include brothers, sisters, aunts and uncles. He thanked the proponents for their testimony.

SEN. BISHOP asked that all amendments be prepared for this bill, by Wednesday, January 31, 2001. He would like the committee to take executive action.

EXECUTIVE ACTION ON SB 82

Ms. Fox explained amendments to SB 82 **EXHIBIT(phs21a04) SB008201.asf.** She said the bulk of the amendments remove the reference to the state auditor's office.

Motion/Vote: SEN. STONINGTON moved that **SB 82 BE ADOPTED AS AMENDED. Motion carried 10-0.**

Motion/Vote: SEN. STONINGTON moved that **SB 82 DO PASS AS AMENDED. Motion carried 10-0.**

EXECUTIVE ACTION ON SB 77

Ms. Fox explained the amendments to SB 77 **EXHIBIT(phs21a05)SB007701.asf.** These amendments came from the DPHHS.

Ms. Fox then passed out a TANF Block Grant tracking sheet **EXHIBIT(phs21a06).** Sen. Christiaens had requested this from Mr. Hudson.

Motion/Vote: SEN. HARGROVE moved that **SB 77 BE ADOPTED AS AMENDED. Motion carried 11-0.**

Motion/Vote: SEN. HARGROVE moved that **SB 77 DO PASS AS AMENDED. Motion carried 10-0.**

EXHIBIT 5
DATE 1-26-01
BILL NO SB77

Amendments to Senate Bill No. 77
1st Reading Copy

Requested by Senator Emily Stonington

For the Senate Public Health, Welfare and Safety Committee

Prepared by Susan Byorth Fox
January 26, 2001 (2:36PM)

1. Page 23, line 3.
Following: line 2
Insert: "(1) "Assessment" means the process of evaluating a recipient's skills, education, job readiness, and barriers to employment. The term may include further in-depth examination to identify and access services and resources to assist the recipient in eliminating barriers to employment if barriers are identified during the initial assessment."
Renumber: subsequent subsections

2. Page 23, line 8.
Strike: "(2)(a)(i) or (2)(a)(ii)"
Insert: "(3)(a)(i) or (3)(a)(ii)"

- END -

DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES

JUDY MARTZ
GOVERNOR

GAIL GRAY, Ed.D.
DIRECTOR

STATE OF MONTANA

PHONE: (406) 444-1788
FAX: (406) 444-2547

HUMAN AND COMMUNITY SERVICES DIVISION
PO Box 202952
Helena, MT 59620-2952

EXHIBIT NO. 6
DATE 1-26-01
BILL NO.

January 23, 2001

Senator B. F. Christiaens
P. O. Box 2871
Great Falls, MT 59403

Dear Senator Christiaens:

Attached is our TANF Block Grant tracking sheet and State Maintenance-of-Effort (MOE) tracking sheet.

I would like to point out several key elements of this sheet.

1) We are planning on spending $21 million per year for benefits. This is currently what we are spending. Block grant money from previous years can only be used for benefits or their administration.

2) Some New Proposal 16 items (initiatives begun during the 2001 biennium) also appear in 2002-2003 as FAIM II items and other activities have been moved to the MOE funding.

3) Due to moving TANF funds within the Department and adjusting the benefit projections we will need to reduce this proposal by $6,755,000 each year in 2002-2005 to retain a sustainable level of spending. An additional diversion of TANF funds will require a further downsizing of these proposals.

4) The MOE tracking sheet will change greatly between 2001 and 2002 as costs are moved from TANF to MOE or vice versa.

I hope these charts are helpful. I am available to provide any additional explanation.

Sincerely,

Hank Hudson

HANK HUDSON
Administrator

c: Susan Fox
Gail Gray

SFY 2001 TANF MOE TRACKING SHEET
December 2000, Fiscal Year 2001

	Budget
FAIM Supportive Services - ($813,209)	
FAIM Supportive Services NA County	413,209
FAIM Supportive Services SA County	400,000
Subtotal	813,209
FAIM Employment and Training - ($7,786,230)	
Special Projects	38,200
FAIM Admin (Direct Admin GF)	120,574
FAIM Program	350,000
DOLI	2,753,813
WoRC	3,256,262
TANFEnhanced Employment	306,500
Chemical Dependency	315,000
FBIC Transition (MOE Plus $100,00)	368,652
FAIMOPI	95,000
Food Bank	125,000
FAIM System	54,011
Counties Over TANF Cap	3,218
Subtotal	7,786,230
Other Benefits Tribal Transition - ($375,635)	
Fort Belknap	37,000
Blackfeet	57,000
CSKT	40,000
Rocky Boy	35,000
Fort Peck	53,000
Crow	40,000
Northern Cheyenne	35,000
Other (held in Transitional Acct)	11,000
Salary	67,635
Subtotal	375,635
LIEAP - ($875,000)	
LIEAP	875,000
Subtotal	875,000
Non-Federal Funds for Weatherization	
Child Care MOE	1,313,990
STATE Administration	1,936,717
STATE Systems	907,647
County Administration	745,066
County Systems	87,379
County Reimbursement	76,000
MOE from SSR Benefits	312,000
Subtotal	5,378,799
MOE Requirement	15,228,873

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Public Health, Welfare and Safety** report that **Senate Bill 77** (first reading copy - white) **do pass as amended.**

Signed: Al Bishop
Senator Al Bishop, Chair

And, that such amendments read:

1. Page 23, line 3.
Following: line 2
Insert: "(1) "Assessment" means the process of evaluating a recipient's skills, education, job readiness, and barriers to employment. The term may include further in-depth examination to identify and access services and resources to assist the recipient in eliminating barriers to employment if barriers are identified during the initial assessment."
Renumber: subsequent subsections

2. Page 23, line 8.
Strike: "(2)(a)(i) or (2)(a)(ii)"
Insert: "(3)(a)(i) or (3)(a)(ii)"

- END -

Committee Vote:
Yes 10, No 0.

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SENATE BILL NO. 77

INTRODUCED BY D. HARGROVE

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE; DEFINING FINANCIAL ASSISTANCE AND NONFINANCIAL ASSISTANCE TO COMPORT WITH FEDERAL LAW; REMOVING AUTHORITY FOR ONE-TIME-ONLY INCOME EXCLUSIONS FOR SPECIAL EMPLOYMENT-RELATED NEEDS; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE DURATION OF BENEFITS AND ELIGIBILITY FOR NONFINANCIAL ASSISTANCE; CLARIFYING SANCTIONS FOR FAILURE OR REFUSAL TO COMPLY WITH FAMILY INVESTMENT AGREEMENTS; REMOVING REFERENCES TO PATHWAYS AND THE COMMUNITY SERVICES PROGRAM; REMOVING THE DESIGNATED COMPONENTS OF THE FAIM PROGRAM; AMENDING SECTIONS 23-1-303, 39-7-303, 39-71-118, 39-71-123, 40-4-215, 40-5-242, 40-5-248, 53-2-201, 53-2-211, 53-2-606, 53-2-610, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-2-904, 53-2-1103, 53-4-201, 53-4-202, 53-4-212, 53-4-214, 53-4-231, 53-4-233, 53-4-241, 53-4-246, 53-4-247, 53-4-602, 53-4-606, 53-4-611, 53-4-612, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, 53-6-101, 53-6-113, 53-6-131, 53-6-132, 53-6-134, AND 53-24-106, MCA; REPEALING SECTIONS 53-4-247, 53-4-603, 53-4-607, 53-4-608, AND 53-4-701, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.

SENATE BILL NO. 77

INTRODUCED BY D. HARGROVE

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE; DEFINING FINANCIAL ASSISTANCE AND NONFINANCIAL ASSISTANCE TO COMPORT WITH FEDERAL LAW; REMOVING AUTHORITY FOR ONE-TIME-ONLY INCOME EXCLUSIONS FOR SPECIAL EMPLOYMENT-RELATED NEEDS; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE DURATION OF BENEFITS AND ELIGIBILITY FOR NONFINANCIAL ASSISTANCE; CLARIFYING SANCTIONS FOR FAILURE OR REFUSAL TO COMPLY WITH FAMILY INVESTMENT AGREEMENTS; REMOVING REFERENCES TO PATHWAYS AND THE COMMUNITY SERVICES PROGRAM; REMOVING THE DESIGNATED COMPONENTS OF THE FAIM PROGRAM; AMENDING SECTIONS 23-1-303, 39-7-303, 39-71-118, 39-71-123, 40-4-215, 40-5-242, 40-5-248, 53-2-201, 53-2-211, 53-2-606, 53-2-610, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-2-904, 53-2-1103, 53-4-201, 53-4-202, 53-4-212, 53-4-214, 53-4-231, 53-4-233, 53-4-241, 53-4-246, 53-4-247, 53-4-602, 53-4-606, 53-4-611, 53-4-612, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, 53-6-101, 53-6-113, 53-6-131, 53-6-132, 53-6-134, AND 53-24-106, MCA; REPEALING SECTIONS 53-4-247, 53-4-603, 53-4-607, 53-4-608, AND 53-4-701, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-1-303, MCA, is amended to read:

"23-1-303. Powers and duties of the division. The division, in cooperation with the department, may:

(1) hire a corps coordinator;

(2) coordinate with state agencies to place eligible participants in work experience projects, including those recipients of ~~FAIM~~ financial assistance, as defined in ~~53-2-902~~ 53-4-201, utilizing grant diversion funding and to place youth who are under state supervision utilizing payments from the department of public health and human services;

(3) develop and approve work experience projects that meet the requirements of this part;

(4) ensure that work experience projects involve labor-intensive improvements to public lands or facilities that will result in a public value and have a potential to yield revenue;

(5) execute contracts or cooperative agreements containing the terms and conditions necessary and desirable for the employment of crewleaders and corpsmembers in approved work experience projects with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

(6) execute contracts or cooperative agreements with federal, state, or local agencies, persons, partnerships, associations, or corporations for the purpose of administering the requirements of this part;

(7) develop procedures for awarding incentive vouchers;

(8) authorize use of the corps for emergency projects, including but not limited to natural disasters, fire prevention and suppression, and rescue of lost or injured persons, and provide adequate training to corpsmembers prior to participation in an emergency project;

(9) apply for and accept grants or contributions of services, funds, or lands from any public or private donors, including the acceptance of federal funds appropriated by the legislature;

(10) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment necessary to complete work experience projects; and

(11) adopt rules and guidelines necessary to implement the provisions of this part and to effectively administer the program."

Section 2. Section 39-7-303, MCA, is amended to read:

"**39-7-303. Definitions.** As used in this part, the following definitions apply:

(1) "Adult" means a person who is 18 years of age or older.

(2) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701.

(3) "Displaced homemaker" means an adult who:

(a) has worked as an adult primarily without remuneration to care for the home and family and for that reason has diminished marketable skills and who has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

(b) (i) is a parent whose youngest dependent child will become ineligible to receive financial assistance ~~under the FAIM financial assistance~~, as defined in ~~53-2-902~~ 53-4-201, pursuant to Title 53, chapter 4, part 2, within 2 years of the parent's application for displaced homemaker assistance;

(ii) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or

suitable employment, as appropriate; or

(iii) meets the qualifications described in subsection (3)(a) or (3)(b) and is a criminal offender."

Section 3. Section 39-71-118, MCA, is amended to read:

"39-71-118. Employee, worker, volunteer, and volunteer firefighter defined. (1) The term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in this chapter, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as defined in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in this chapter, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an

impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

(g) a person who is an enrolled member of a volunteer fire department, as described in 7-33-4109, or a person who provides ambulance services under Title 7, chapter 34, part 1; and

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704 is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for ~~participants in the FAIM project~~ recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's ~~FAIM~~ public assistance participants and may only be for the duration of each participant's training ~~in the FAIM project~~ while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment;

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs

services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(d) serving as a foster parent, licensed as a foster care provider in accordance with 41-3-1141, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

(4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a fire company organized and funded by a county, a rural fire district, or a fire service area.

(b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an employer, including but not limited to training time, response time, and time spent at the employer's premises.

(5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $900 a month and not more than 1 1/2 times the average weekly wage, as defined in this

chapter.

(6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $200 a week and not more than 1 1/2 times the average weekly wage, as defined in this chapter.

(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly wage divided by 40 hours, subject to a maximum of 1 1/2 times the average weekly wage.

(8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational

institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(10) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(11) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection (10)(d)."

Section 4. Section 39-71-123, MCA, is amended to read:

"39-71-123. Wages defined. (1) "Wages" means all remuneration paid for services performed by an employee for an employer, or income provided for in subsection (1)(d). Wages include the cash value of all remuneration paid in any medium other than cash. The term includes but is not limited to:

(a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness ~~periods~~;

(b) backpay or any similar pay made for or in ~~regards~~ regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;

(c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;

(d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;

(e) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and

(f) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.

(2) The term "wages" does not include any of the following:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(b) the amount of the payment made by the employer for employees, if the payment was made for:

(i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(ii) sickness or accident disability under a workers' compensation policy;

(iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;

(iv) death, including life insurance for the employee or the employee's immediate family;

(c) vacation or sick leave benefits accrued but not paid;

(d) special rewards for individual invention or discovery; or

(e) monetary and other benefits paid to a person as part of public assistance ~~provided through the FAIM project~~, as defined in ~~53-4-702~~ 53-4-201.

(3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) The compensation benefits for a covered volunteer must be based on the average actual wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual wages of all employments, except for the wages earned by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred."

Section 5. Section 40-4-215, MCA, is amended to read:

"40-4-215. Investigations and reports. (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a recipient of ~~cash assistance under the temporary assistance for needy families block grant, FAIM~~ financial assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined in 53-2-902, ~~food stamps, or public assistance~~ and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid from the fees for filing petitions for contested amendment of a parenting plan, as provided in 25-1-201(9).

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

(a) parenting education;

(b) mediation pursuant to 40-4-301;

(c) factfinding by the investigator; and

(d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has information about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child ~~has reached the age of~~ is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 6. Section 40-5-242, MCA, is amended to read:

"40-5-242. Notice of support lien -- civil liability upon failure to honor support lien or to comply with warrant for distraint. (1) The department may, at any time after asserting a support lien, serve a notice of the lien on any person, firm, corporation, association, or political subdivision or department of the state in possession of any real or personal property that is due, owing, or belonging to an obligor. For this purpose, personal property includes the obligor's share of a decedent's estate, workers' compensation benefits, and any proceeds or potential proceeds from suits at law. Except as provided in subsections (1)(a) and (1)(b), the department may not impose a lien under this section upon a self-sufficiency trust

established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial assistance program~~ for temporary assistance for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(2) Except as provided in subsection (3), a person or entity is liable to the department in an amount equal to 100% of the value of a support lien or warrant for distraint or the value of real or personal property subject to a support lien or distrained by a warrant for distraint, whichever is less, together with costs, interest, and reasonable attorney fees, if the person or entity:

(a) pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien, to or for the benefit of the obligor, after the person or entity receives actual notice of filing of the support lien; or

(b) fails or refuses to surrender upon demand property of an obligor when presented with a warrant for distraint by a sheriff or levying officer under the provisions of 40-5-247.

(3) A person or entity is not liable to the department under this section when:

(a) a written release or waiver of the support lien or warrant for distraint issued by the department has been delivered to the person or entity;

(b) a determination has been made in an adjudicative proceeding, either administrative or judicial, that a support lien does not exist or that the lien has been satisfied; or

(c) the property subject to a support lien has been transferred to, paid over to, or repossessed by a person or entity holding:

(i) a prior perfected lien;

(ii) a mortgage, the proceeds of which were used by the obligor to purchase real property; or

(iii) a perfected purchase money security interest, as [defined by 30-9-107] described by 30-9-321.

(Bracketed reference deleted July 1, 2001.)"

Section 7. Section 40-5-248, MCA, is amended to read:

"40-5-248. Lien against real and personal property -- effect of lien -- interest -- warrant for distraint. (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as [defined in 30-9-107] described in 30-9-321.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until 2 years after the child to whom the support lien is related attains the age of majority, whichever occurs first.

(5) The lien applies to all real and personal property owned by the obligor if it can be located in the state. The lien applies to all real and personal property that the obligor can afterward acquire. Except as provided in subsections (5)(a) and (5)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department

is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial~~ for temporary assistance ~~program~~ for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(6) The department shall keep a record of support liens asserted under this section in the registry of support orders established by 40-5-271.

(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of ownership is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under [30-9-401] 30-9-321. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer, in the ordinary course of business, who buys an obligor's personal property for value and who buys in good faith and without knowledge of the support lien takes the property free of the support lien.

(9) (a) The department may charge interest on the support lien at the rate of 1% per month.

(b) Interest accrues at the close of the business day on the last day of each month and is calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end of the day, by the applicable rate of interest.

(c) A provision of this section may not be construed to require the department to maintain interest balance due accounts. The department may waive interest if waiver would facilitate the collection of the debt.

(d) Interest under this subsection (9) is in addition to and not in substitution for any other interest accrued or accruing under any other provision of law.

(10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the department shall take all necessary steps to release the support lien.

(b) Upon receiving partial payment of the support lien or if the department determines that a release or partial release of the lien will facilitate the collection of support arrearages, the department may release or partially release the support lien. The department may release the support lien if it determines that the lien is unenforceable.

(11) A support lien under this section is in addition to any other lien created by law.

(12) A support lien under this section may not be discharged in bankruptcy.

(13) Support liens provided for by this section may be enforced or collected through the warrant for distraint provided for by 40-5-247. (Bracketed references deleted July 1, 2001.)"

Section 8. Section 53-2-201, MCA, is amended to read:

"53-2-201. Powers and duties of department. (1) The department shall:

(a) administer and supervise public assistance, including the provision of food stamps, food commodities, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance, employment and training services for recipients of public assistance, and other programs as necessary to strengthen and preserve families;

(b) give consultant service to private institutions providing care for adults who are needy, indigent, or dependent or who have disabilities;

(c) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(d) ~~provide services in respect to organization~~ organize and supervise ~~county departments~~ the local offices of public ~~welfare and county boards of public welfare~~ assistance in ~~the administration of public assistance functions and for efficiency and economy~~ an efficient and economical manner;

(e) assist and cooperate with other state and federal departments, bureaus, agencies, and

institutions, when requested, by performing services in conformity with public assistance purposes;

(f) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

(g) make rules governing payment for services and supplies provided to recipients of public assistance; and

(h) adopt rules regarding assignment of monetary and medical support upon application for ~~FAIM~~ financial assistance, as defined in 53-2-902, and related medical assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property that is necessary to carry out its public assistance functions. Title to property obtained under this subsection must be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance."

Section 9. Section 53-2-211, MCA, is amended to read:

"53-2-211. Department to share eligibility data. (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and ~~the~~ workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance~~,~~ and weatherization. The information made available must include information on the amount and source of an applicant's income.

The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in 15-30-303(8)(c).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income energy assistance, weatherization, or other public assistance. ~~The information may be disclosed only for purposes directly connected with the administration of a program or purpose of the agency and may not be used by the agency for any other purpose.~~"

Section 10. Section 53-2-606, MCA, is amended to read:

"**53-2-606. Right of appeal.** (1) If an application for assistance for food stamps, ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made with which the applicant or recipient is not satisfied, the applicant or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing to the department of public health and human services. The board of public assistance shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a county welfare board and may consider any application upon which a decision has not been made by the county board within a reasonable time from the filing of the decision. The department may have an additional ~~investigation~~ eligibility determination made and shall make a decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions

of this title.

(3) If the department reviews a county decision on its own motion, applicants or recipients affected by the decisions of the department shall upon request be given reasonable notice and an opportunity for a fair hearing by the board of public assistance.

~~(4) All decisions of the department or the board of public assistance are final and are binding and must be complied with by the county department.~~"

Section 11. Section 53-2-610, MCA, is amended to read:

"**53-2-610. County to reimburse department.** (1) On or before the 20th of each month, the department shall present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county to recipients during the month and for vendor medical payments made on behalf of recipients in the previous month. The county department shall make the reimbursement to the department within 20 days after the claim is presented.

(2) The counties may not be required to reimburse the department for:

(a) any portion of public assistance paid to a household eligible for ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, if the household includes an enrolled Indian who is the caretaker relative of a needy dependent child; or

(b) any payment on behalf of any person in a state-operated medical institution.

(3) (a) From the original date of entrustment or the original date of state residency, whichever is earlier, recipients of public assistance who become wards or patients in a licensed nursing home or hospital, foster home, or private charitable institution are the financial responsibility of the appropriate county as provided in subsections (3)(b) through (3)(d).

(b) The county in which commitment of an adult is initiated is considered the county of financial responsibility except when a court decree declares the residency to be otherwise. When an adult is transferred from a facility or institution to one of the facilities listed in subsection (3)(a), the county that initiated the original commitment is considered the county of financial responsibility except in the case of an adult transfer from an out-of-state institution, in which case the county in which the facility is located is considered the county of financial responsibility.

(c) In all cases in which a minor patient or ward is involved, the county of financial responsibility is the county in which the parent or guardian resides. If the custody of a minor is entrusted to a state

agency, the agency may make a reasonable declaration of the county residency of its ward using applicable guidelines enumerated in this section.

(d) If a person is or becomes an adult while in an institution, the person may determine the county of residence when the person is restored to competency and released. The person becomes the financial responsibility of the new county of residence."

Section 12. Section 53-2-613, MCA, is amended to read:

"53-2-613. Application for assistance -- assignment of support rights. (1) Applications for public assistance, including but not limited to ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, and medical assistance, ~~must~~ may be made ~~to the county department of public welfare in the county~~ in ~~which the person is residing~~ any local office of public assistance. The application must be submitted, in the manner and form prescribed by the department, and must contain information required by the department.

(2) A person who signs an application for ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance assigns to the state, to the department, and to the county ~~welfare department~~, if county funds were used to pay for services, all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or in behalf of any other family member for whom application is made. A person who signs an application for public assistance other than ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance may, in accordance with rules adopted by the department, be required to assign to the state, to the department, and to the county ~~welfare department~~ all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or on behalf of any other family member for whom application is made.

(3) The assignment:

(a) is effective for both current and accrued support, including unpaid support that accrued before the applicant received public assistance, and medical obligations;

(b) takes effect upon a determination that the applicant is eligible for public assistance; and

(c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

(4) If a person who is the legal custodian and child support obligee under a support order

relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical custody of the child, except for any unpaid support still owing under the assignment at that time.

(5) Whenever a child support or spousal support obligation is assigned to the department pursuant to this section, the following provisions apply:

(a) If the support obligation is based upon a judgment or decree or an order of a court of competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse the cumulative total of public assistance money expended.

(b) A recipient or former recipient of public assistance may not commence or maintain an action to recover or enforce a delinquent support obligation or make any agreements with any other person or agency concerning the support obligation, except as provided in 40-5-202.

(c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay over or release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant to a judgment or decree or an order of the court until the department's child support enforcement division has filed a written notice that:

(i) the assignment of current support amounts has been terminated; and

(ii) all assigned support delinquencies, if any, are satisfied or released.

(d) A recipient or former recipient of public assistance may not take action to modify or make any agreement to modify, settle, or release any past, present, or future support obligation unless the department's child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or agreements entered into without the participation of the department are void with respect to the state, the department, and the county welfare department.

(e) A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order."

Section 13. Section 53-2-901, MCA, is amended to read:

"**53-2-901. Administration of food stamp program -- rulemaking authority.** (1) The department is authorized to administer the food stamp program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the food stamp program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of ~~FAIM~~ financial assistance who have been sanctioned because of failure to meet any requirement of that program.

(4) The department may adopt rules that include but are not limited to rules concerning:

(a) requirements for recipients to assign the right of support;

(b) requirements for recipients to cooperate with the state agency administering the child support enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

(c) disqualification for failure to perform actions required by other means-tested programs, for failure to cooperate with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C. 2015."

Section 14. Section 53-2-902, MCA, is amended to read:

"**53-2-902. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of public health and human services provided in Title 2, chapter 15, part 22.

(2) "Employment and training demonstration project" means the employment and training program for recipients of ~~FAIM~~ financial assistance who are participating in the FAIM project.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(3) "FAIM project" means the families achieving independence in Montana project, including the ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

(4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(5) "Food stamp program" means the provision of food stamp benefits that can be used to purchase food to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.

(6) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(7) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C. 601, et seq."

Section 15. Section 53-2-903, MCA, is amended to read:

"**53-2-903. Employment and training program.** The department shall establish and administer an employment and training program for food stamp recipients that is in compliance with federal requirements. For purposes of the FAIM project, in accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may merge its food stamp program employment and training program with its ~~FAIM~~ financial assistance employment and training program or may modify the rules and requirements of the food stamp program employment and training program as necessary to make them consistent with those of the employment and training

demonstration project."

Section 16. Section 53-2-904, MCA, is amended to read:

"**53-2-904. Income and resource exclusions -- FAIM participants.** In accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may by rule establish special income and resource exclusions to be applied to participants of the FAIM project in determining their eligibility for food stamps and in determining the benefit amount. ~~Exclusions that may be established include but are not limited to exclusions for one-time only cash payments for special employment-related needs as provided in 53-4-603 in determining the recipients' eligibility for food stamps and determining the benefit amount.~~"

Section 17. Section 53-2-1103, MCA, is amended to read:

"**53-2-1103. Definitions.** For the purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Economically disadvantaged person" has the same meaning as provided in section 4 of the Job Training Partnership Act (29 U.S.C. 1503).

(2) "Job Training Partnership Act" means the federal Job Training Partnership Act, Public Law 97-300 (29 U.S.C. 1501, et seq.), as amended.

(3) "Job training plan" means the plan for providing services and training in a service delivery area, as required in 53-2-1107.

(4) "Program" means the program created by 53-2-1104 to implement the provisions of Title II-A of the Job Training Partnership Act.

(5) "Program year" means the fiscal year beginning on July 1 of the year for which an appropriation is made for the program established under this part, as provided in section 161 of the Job Training Partnership Act (29 U.S.C. 1571).

(6) "Public assistance program" means the state program ~~of FAIM~~ that provides financial assistance, as defined in 53-2-902.

(7) "Service delivery area" means an area designated as provided in section 101 of the Job Training Partnership Act (29 U.S.C. 1511)."

Section 18. Section 53-4-201, MCA, is amended to read:

"53-4-201. Definitions. As used in part 6 and this part, the following definitions apply:

(1) "ASSESSMENT" MEANS THE PROCESS OF EVALUATING A RECIPIENT'S SKILLS, EDUCATION, JOB READINESS, AND BARRIERS TO EMPLOYMENT. THE TERM MAY INCLUDE FURTHER IN-DEPTH EXAMINATION TO IDENTIFY AND ACCESS SERVICES AND RESOURCES TO ASSIST THE RECIPIENT IN ELIMINATING BARRIERS TO EMPLOYMENT IF BARRIERS ARE IDENTIFIED DURING THE INITIAL ASSESSMENT.

~~(1)~~(2) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(2)~~(3) (a) "Dependent child", for public assistance purposes, means:

(i) a child under 18 years of age; or

(ii) a person under 19 years of age who is a student, as defined by the department by rule.

(b) The person described in subsection ~~(2)(a)(i) or (2)(a)(ii)~~ (3)(A)(I) OR (3)(A)(II) must be living with a specified caretaker relative, as defined by the department by rule.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(3)(4) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

~~(5)~~(4)(5) "Family" means a group of people who live with a dependent child, each of whom is related to the dependent child by blood, marriage, or adoption or by law, such as:

(a) a parent, including a natural or adoptive parent, a stepparent, or a person considered by law to be a parent in the case of a child conceived by artificial insemination; or

(b) a sibling.

~~(6)~~(5)(6) "Federal poverty level" means the measure of indigence established annually by the U.S. office of management and budget.

~~(6)~~(7) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

~~(7)~~(8) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

~~(7)(8)~~(9) "Public assistance" or "assistance" means a type of monetary or other assistance

furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

~~(8)~~(9)(10) "Specified caretaker relative" means a person within a degree of kinship to the dependent child, as specified by department rule, who lives with the child and exercises care and control over the child.

~~(9)~~(10)(11) "State plan" means the policies and procedures governing the state of Montana's FAIM ~~financial assistance program~~ project and other programs funded by temporary assistance for needy families. It is prepared by the department and certified by the federal agency that provides funding for those programs.

~~(10)~~(11)(12) "Temporary assistance for needy families" means the federal block grant ~~that funds FAIM financial assistance and other programs to strengthen and preserve families~~ established pursuant to ~~Title IV of the Social Security Act,~~ 42 U.S.C. 601, et seq.~~, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.~~"

Section 19. Section 53-4-202, MCA, is amended to read:

"**53-4-202. ~~FAIM financial~~ Financial assistance to be in effect in all counties.** (1) It is ~~mandatory and~~ required that the state plan and programs described in the state plan must be in effect in each county of the state.

(2) It is not required that the programs funded under ~~the~~ temporary assistance for needy families ~~block grant~~ be uniformly administered in each county of the state, provided that it is administered in accordance with all requirements of the state plan and federal law. The department may also administer demonstration programs pursuant to section 1115 of the Social Security Act, 42 U.S.C. 1315, or any other provision of that act that permits the states to administer experimental, pilot, or demonstration projects.

(3) An enrolled member of an Indian tribe participating in a program that is funded, at least in part, by ~~the~~ temporary assistance for needy families ~~block grant administered by the state of Montana~~ must be subject to the same rules, policies, and requirements as all other applicants for and recipients of benefits funded by ~~the~~ temporary assistance for needy families ~~block grant~~ unless an exception is expressly granted by federal law."

Section 20. Section 53-4-212, MCA, is amended to read:

"53-4-212. Department to make rules. (1) The department shall make rules and take action as necessary or desirable for the administration of ~~the FAIM financial~~ public assistance ~~program and other~~ programs ~~funded under the temporary assistance for needy families block grant~~.

(2) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, ~~and~~ methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives ~~participating in the community services program~~, including cooperation with assessments, the number of hours of ~~community service work~~ participation required for each ~~per~~ month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for ~~FAIM project~~ financial assistance ~~participants~~ recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) ~~maximum amounts of one-time only cash payments for special employment-related needs and the length of time that a family is required to remain off cash assistance after a payment is received~~ eligibility criteria and participation requirements for nonfinancial assistance recipients;

~~(h) exemptions from time limits in pathways and the community services program;~~

~~(i)~~(h) terms of ineligibility or sanctions against a specified caretaker ~~relative's~~ relative or other family ~~member's ineligibility for assistance because of failure~~ member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

~~(j)~~(i) requirements, if any, for participation in ~~and exemptions from participation in and procedures and policies of~~ the employment and training demonstration project;

~~(k)~~(j) eligibility for and terms and conditions of extended ~~child care and~~ medical assistance benefits;

~~(l)~~(k) reporting requirements;

~~(m)~~(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the ~~program~~ rules or requirements of a public assistance program;

~~(n)~~(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

~~(o)~~(n) individuals who must be included as members of an assistance unit;

~~(p)~~(o) categories of aliens who may receive assistance, if any;

~~(q)~~(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

~~(r)~~(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

~~(s)~~(r) special eligibility or participation requirements applicable to teenage parents, if any; and

~~(t)~~(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued."

Section 21. Section 53-4-214, MCA, is amended to read:

"**53-4-214. Distribution of copies of law and forms by department.** The department shall have printed and shall distribute copies of this part to all ~~county welfare departments~~ local offices of public assistance and shall prescribe the form of and print and supply to the ~~county welfare department~~ local offices of public assistance blanks of applications, reports, and other forms that may be necessary in relation to the ~~FAIM financial assistance and other~~ administration of public assistance programs ~~funded under the temporary assistance for needy families block grant~~."

Section 22. Section 53-4-231, MCA, is amended to read:

"**53-4-231. Eligibility.** (1) Subject to the provisions of subsections (2) through (5), assistance may be granted under this part to:

(a) a dependent child;

(b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents of a dependent child who:

(i) enters into a family investment agreement, as provided for in 53-4-606, if required by the department; and

(ii) cooperates in all assessments and screening required by the department;

(c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;

(d) persons under 18 years of age who live in the home with a dependent child, including but not limited to siblings related to the dependent child by blood, marriage, or adoption or by law;

(e) a needy pregnant woman with no other children who is receiving payments. Payments may begin no earlier than the third month prior to the month in which the child is expected to be born.

(2) Persons who are not citizens of the United States are eligible for assistance only as provided in sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as codified in Title 8 of the United States Code.

(3) A person who, after August 22, 1996, has been convicted of a felony offense, an element of which involves the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. 802, is ineligible for public assistance unless the person:

(a) has satisfied all conditions of probation or parole, if any, associated with the felony conviction; and

(b) completes a chemical dependency assessment by a chemical dependency counselor approved by the department and based on the assessment:

(i) there is the absence of any current drug dependency; or

(ii) the person satisfactorily completes a course of treatment and all requirements recommended by the chemical dependency counselor.

~~(3)~~(4) The following are not eligible for assistance:

(a) persons who are receiving supplemental security income payments under the Social Security Act;

(b) an adult or a dependent child who is or is expected to be absent from the home of the specified caretaker relative continuously for a period of time prescribed by the department by rule;

(c) a specified caretaker relative who fails to comply with requirements for reporting the absence

of a dependent child from the specified caretaker relative's home as prescribed by the department by rule;

(d) families in which the specified caretaker relative fails or refuses to assign child and medical support rights to the department or to cooperate in establishing paternity or obtaining child or medical support as required by the department by rule;

(e) families in which the specified caretaker relative or other adult household member, as specified by the department by rule, fails or refuses to:

(i) cooperate in any required screening or assessment; or

(ii) enter into a family investment agreement required by the department under 53-4-606;

~~(e)~~(f) teenage parents who fail or refuse to attend secondary school or another training program as required by the department by rule;

~~(f)~~(g) teenage parents who are not living in an adult-supervised setting as defined by the department by rule;

~~(g)~~(h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608; and

~~(h)~~(i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~;~~. The ineligibility continues for a period of 10 years beginning on the date of conviction~~; and~~

~~(i) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)~~.

~~(4)~~(5) A family is not eligible for financial assistance if the family includes an adult who has received financial assistance in a program funded under ~~the~~ temporary assistance for needy families ~~block grant~~ in any state or states for 60 months or more, whether or not the months are consecutive, ~~except as provided by the department by rule in accordance with section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~ unless an exception is expressly granted by federal law.

~~(5)~~(6) This part may not be interpreted to entitle any individual or family to assistance under programs funded by ~~the~~ temporary assistance for needy families ~~block grant~~."

Section 23. Section 53-4-233, MCA, is amended to read:

"**53-4-233. ~~Investigation of~~ Eligibility determination for applications.** Whenever a ~~county department~~ local office of public assistance receives an application for assistance under this part, an ~~investigation~~ eligibility determination must be promptly made by the ~~county department~~ local office of public ~~welfare~~ assistance. Each applicant shall participate in any screening required by the department and must be informed of the applicant's right to a fair hearing and of the confidential nature of information secured. Upon completion of an ~~investigation~~ eligibility determination and any required screening, aid must be furnished promptly to all eligible persons. Each applicant must receive written notice of the decision concerning the applicant's request for assistance."

Section 24. Section 53-4-241, MCA, is amended to read:

"**53-4-241. Amount of assistance determined by department rules.** The amount of ~~FAIM~~ financial assistance or nonfiancial assistance granted in any case must be determined according to the rules and standards of assistance established by the department."

Section 25. Section 53-4-246, MCA, is amended to read:

"**53-4-246. (Temporary) County share of participation.** Except for recipients who are enrolled members of an Indian tribe, for each recipient of cash assistance in the FAIM project, the county where the recipient resides shall reimburse the department 22.5% of the nonfederal share of the approved temporary assistance for needy families grant for the recipient. However, a county is not required to reimburse the department more for temporary assistance for needy families grants for 1 state fiscal year than the dollar amount that the county paid as its share of cash assistance and emergency assistance programs in 1996. For purposes of determining the nonfederal share, the federal share is considered to be equal to the federal medical assistance percentage paid to the states for medicaid benefits under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. (Terminates June 30, 2001--sec. 6, Ch. 341, L. 1999.)

53-4-246. (Effective July 1, 2001) County share of participation. Each county where the recipient of ~~FAIM~~ financial assistance resides shall reimburse the department in the amount equal to the percentage of the approved temporary assistance for needy families grants not paid with federal temporary assistance for needy families funds."

Section 26. Section 53-4-247, MCA, is amended to read:

"53-4-247. County liability when recipient moves to another county. A recipient of ~~FAIM~~ financial assistance who moves to another county in the state shall continue to receive assistance. The county that the recipient moves to must be charged by the department for the county share of assistance. The county that a recipient moves from shall notify the county that the recipient moves to."

Section 27. Section 53-4-602, MCA, is amended to read:

"53-4-602. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cash assistance" means monetary payments to a recipient of ~~FAIM~~ financial assistance to meet basic needs, such as shelter, utilities, clothing, and personal needs.

(2) "Child-care assistance" means payments to or on behalf of the specified caretaker relative of a dependent child to defray the cost of having a third party care for the child.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "FAIM project" means the families achieving independence in Montana project, including a ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered under the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315."

Section 28. Section 53-4-606, MCA, is amended to read:

"53-4-606. Requirements for eligibility -- family investment agreement. (1) Eligibility for ~~FAIM~~ financial assistance under the FAIM project with regard to income, resources, and all other factors of eligibility must be determined in accordance with the waivers granted by the U.S. secretary of health and human services under section 1115 of the Social Security Act, 42 U.S.C. 1315.

(2) (a) As a condition of eligibility for financial assistance ~~under pathways and the community services program~~, all specified caretaker relatives and other family members, as specified by the department by rule, shall enter into a family investment agreement with the department and shall comply with the terms of that agreement. ~~Entering into an agreement is not a condition of eligibility for the job supplement program.~~

(b) The family investment agreement must set forth the mutual obligations of the participant and the department to help the family achieve the goal of self-sufficiency. The agreement may contain provisions:

(i) regarding actions to be taken by the specified caretaker relative and by the department to secure child support;

(ii) requiring that the immunization and health-screening requirements of the early and periodic screening, diagnosis, and treatment program be met for all children in the family; ~~and~~

(iii) requiring the participant to cooperate in any assessments necessary to identify barriers to self-sufficiency and listing specific actions to be taken in order to eliminate any identified barriers; and

~~(iii)~~(iv) specifying other services and activities appropriate for the participant or family.

(c) ~~An individual who is required to enter into a family investment agreement and who~~ Families in which the specified caretaker relative or other adult household member, as specified by rule, fails or refuses to enter into a family investment agreement without good cause ~~to do so or fails without good cause to comply with the individual's obligations under the agreement is~~ are ineligible~~, as provided in 53-4-608,~~ for ~~FAIM~~ financial assistance.

(d) An individual who is required to enter into a family investment agreement and who refuses or fails, without good cause, to comply with the terms of the family investment agreement must be sanctioned in accordance with the rules and policies of the department.

~~(3) As a condition of eligibility for the community service program, a specified caretaker relative shall perform community service work as required by the department.~~"

Section 29. Section 53-4-611, MCA, is amended to read:

"**53-4-611. Child-care assistance.** ~~(1) In the job supplement program component of the FAIM project, the~~ The department may provide child-care assistance to all ~~single-parent~~ families receiving financial assistance if child care is necessary to allow the parent to engage in paid employment and if funding is available. Child-care assistance may~~, at the department's discretion,~~ be provided to ~~two-parent~~ families receiving financial assistance if child care is necessary to allow either or both parents to engage in ~~paid employment~~ the activities required by a family investment agreement under 53-4-606 and if funding is available.

~~(2) In the pathways component of the FAIM project, the department may provide child-care~~

~~assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child-care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~

~~(3) In the community services program component of the FAIM project, the department may provide child-care assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child-care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~"

Section 30. Section 53-4-612, MCA, is amended to read:

"**53-4-612. Extended ~~child care and~~ medical assistance benefits.** A family receiving ~~FAIM~~ financial assistance ~~under a component of the FAIM project~~ that loses eligibility for assistance because of increased income ~~from any source~~ may receive extended medical assistance benefits if funding is available, provided that the family's income does not exceed a percentage of the federal poverty level specified by the department by rule~~, and may receive child-care assistance pursuant to 53-4-611 if funding is available~~."

Section 31. Section 53-4-613, MCA, is amended to read:

"**53-4-613. Employment and training program.** In cases in which the department determines that participation in the employment and training program would be appropriate for a ~~participant in pathways~~ recipient of financial assistance, the ~~participant~~ recipient may be required to participate in employment and training as one of the conditions of the ~~participant's~~ family investment agreement required under 53-4-606."

Section 32. Section 53-4-702, MCA, is amended to read:

"**53-4-702. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in

2-15-2201.

~~(2) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash payments, services, and noncash assistance.~~

~~(3)~~(2) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

(3) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(4) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(5) "Temporary assistance for needy families" means the block grant program established pursuant to 42 U.S.C. 601, et seq."

Section 33. Section 53-4-704, MCA, is amended to read:

"53-4-704. Placement of ~~FAIM~~ financial assistance recipients or food stamp program participants for purpose of training. (1) The department or a person designated by the department may place an individual receiving financial assistance or participating in the ~~FAIM project~~ food stamp program into a position of employment with a public or private entity for the purpose of training the individual in the knowledge and skills necessary for the individual to become successfully employed.

(2) The department may, pursuant to subsection (1), place an individual ~~participating in the FAIM project~~ into a position at a worksite only with the permission and assistance of the public or private entity at the worksite under a written training agreement between the department and the entity.

(3) The placement of an individual into a position at a public or private worksite pursuant to subsection (1) is only for the purpose of training the individual in employment knowledge and skills and is not for the purpose of providing paid employment for the individual. The placement may not supplant an existing employment position or another individual already employed at the worksite. Placement of the individual at the public or private worksite pursuant to subsection (1) should last no longer than is necessary to achieve the employment training purposes of the ~~FAIM project~~ program.

(4) The private or public entity where an individual is placed pursuant to subsection (1) may

choose whether or not to later employ the individual after the conclusion of the individual's training."

Section 34. Section 53-4-705, MCA, is amended to read:

"**53-4-705. Services and activities.** Under the program provided for in 53-4-703, the department shall make available a broad range of services and activities to assist recipients of ~~FAIM~~ financial assistance as specified by the department by rule."

Section 35. Section 53-4-706, MCA, is amended to read:

"**53-4-706. Participation requirements.** (1) Except as otherwise provided in this section, the department may require individuals to participate in the employment and training program as a condition of their eligibility for ~~FAIM~~ financial assistance.

(2) To the extent that the program is available and that state resources permit, the department shall require recipients of ~~FAIM~~ financial assistance ~~who are participating in the pathways component of the FAIM project~~ to participate in the program if the department determines that it is an appropriate activity for the recipient and includes participation as a condition of the recipient's family investment agreement as provided for in 53-4-606."

Section 36. Section 53-4-717, MCA, is amended to read:

"**53-4-717. Sanctions.** If an individual receiving ~~FAIM~~ financial assistance ~~under the FAIM project~~ is required to participate in the employment and training program as a condition of the individual's family investment agreement, as provided for in 53-4-606, and fails without good cause to participate, the individual must be sanctioned in accordance with rules established by the department. Except as required by federal law, a sanction may not include any restriction or termination of food stamps or medicaid coverage, and child care benefits may only be continued for employment-related activities required by the family investment agreement that the ~~FAIM~~ participant has signed that are to be performed during the sanction period. The department may establish rules to ensure that individuals who participate in good faith are sanctioned properly and avail themselves of additional case management services to ensure compliance with the family investment agreement."

Section 37. Section 53-6-101, MCA, is amended to read:

"**53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended. The department of public health and human services shall administer the Montana medicaid program.

(2) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department; and

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2).

(3) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 2;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(o) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

(p) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) Services for persons qualifying for medicaid under the medically needy category of assistance as described in 53-6-131 may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (2) and (3) to persons qualifying for medicaid under the medically needy category of assistance.

(5) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to ~~the~~ a program ~~of FAIM~~ providing financial assistance, as defined in ~~53-4-702~~ 53-4-201. Basic medicaid benefits consist of all mandatory

services listed in subsections (2)(a) through (2)(l) but may include those optional services listed in subsections (3)(a) through (3)(p) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~ and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(6) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(7) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(8) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(9) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(10) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(11) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(12) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted under this chapter.

(13) Medicaid payment for personal-care facilities may not be made unless the department certifies to the director of the governor's office of budget and program planning that payment to this type of provider would, in the aggregate, be a cost-effective alternative to services otherwise provided."

Section 38. Section 53-6-113, MCA, is amended to read:

"53-6-113. Department to adopt rules. (1) The department of public health and human services shall adopt appropriate rules necessary for the administration of the Montana medicaid program as

provided for in this part and ~~as~~ that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules ~~as~~ that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed-care

systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) The department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving benefits from ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, ~~as participants of the FAIM project~~ who lose eligibility because of increased income, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 39. Section 53-6-131, MCA, is amended to read:

"**53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits ~~or receive from FAIM financial assistance, as defined in 53-4-702, benefits under Title IV of the federal Social Security Act, 42 U.S.C. 601, et seq~~.

(b) The person would be eligible for assistance under ~~a~~ the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under ~~one of~~ the ~~programs~~ program in subsection (1)(a).

(d) The person is under 19 years of age and meets the conditions of eligibility in the state plan, as defined in 53-4-201, other than with respect to age and school attendance.

(e) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

(f) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through (1)(e) and:

(i) the person's income does not exceed the income level specified for federally aided categories

of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

(g) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and to all adult recipients of medical assistance only who are covered under a group

related to the program of ~~FAIM~~ financial assistance. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services. The standards for eligibility for mental health services may provide for eligibility for households not eligible for medicaid with family income that does not exceed 200% of the federal poverty threshold or that does not exceed a lesser amount determined in the discretion of the department. The department may by rule specify under what circumstances deductions for medical expenses should be used to reduce countable family income in determining eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged recipients for services. The fees, premiums, or copayments may vary according to family income."

Section 40. Section 53-6-132, MCA, is amended to read:

"53-6-132. Application for assistance -- exception. (1) ~~Except as provided in~~ Subject to subsection

(2), application for assistance under this part ~~must~~ may be made ~~to the~~ in any local office of ~~the county department in the county in which the person is residing~~ public assistance. The application must be presented in the manner and on the form prescribed by the department of public health and human services. All individuals wishing to apply must have the opportunity to do so.

(2) Notwithstanding the provisions of subsection (1), the department may designate an entity other than the ~~county department~~ local office of public assistance to determine eligibility for medicaid managed care services."

Section 41. Section 53-6-134, MCA, is amended to read:

"53-6-134. Extension of eligibility for medical assistance to persons terminated from ~~FAIM~~ financial assistance. (1) In providing for the extension of eligibility for medical assistance under subsection (2), the department may provide for health insurance or other health coverage in accordance with subsections 1925(a)(4)(B) and 1925(b)(4)(C) of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6(a)(4)(B) and 42 U.S.C. 1396r-6(b)(4)(C), and may exercise the other options contained in section 1925 of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6, regarding the provision of medical assistance.

(2) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may provide extended eligibility for medical assistance for a period of time established by the department by rule for persons receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, ~~under the job supplement program, pathways, or community services program components of the FAIM project described in 53-4-603~~ who lose eligibility because of increased income from any source ~~or because of exhausting time-limited earned income disregards~~, provided that the family's income does not exceed a percentage of the federal poverty level established by the department by rule. The department, in exercising its discretion to establish income standards and duration of extended medical assistance by rule, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 42. Section 53-24-106, MCA, is amended to read:

"53-24-106. Criminal laws limitation. (1) ~~No~~ A county, municipality, or other political subdivision may not adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes

drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) ~~Nothing in this~~ This section ~~affects~~ does not affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, a boat, machinery, or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(3) This section does not prevent the department from imposing a sanction on or denying eligibility to applicants for or recipients of public assistance who fail or refuse to comply with all eligibility criteria and program requirements."

NEW SECTION. **Section 43. Coordination instruction.** If ___Bill No.___ [LC 428] is not passed and approved, then all references in [this act] to local offices of public assistance are changed to references to county welfare offices.

NEW SECTION. **Section 44. Repealer.** Sections 53-4-247, 53-4-603, 53-4-607, 53-4-608, and 53-4-701, MCA, are repealed.

NEW SECTION. **Section 45. Effective date.** [This act] is effective July 1, 2001.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on March 12, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:
Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 77, SB 82, SB 169, 3/9/2001
Executive Action: HB 486, SB 169, SB 108, SB 135

HEARING ON SB 77

Sponsor: SEN. DON HARGROVE, SD 16, Belgrade

Proponents: Hank Hudson, Human & Community Services Div., DPHHS
Christine Amundson, Helena, Mt. Chapter, Nat. Assn. of Social Workers

Opponents: None

Opening Statement by Sponsor:

SEN. DON HARGROVE, SD 16, Belgrade, said this is a pretty big bill and it makes some significant changes. Some of the major decisions regarding the welfare system are going to be made in HB 2, but this bill provides the framework, and it's an important and very essential bill. It comes from the Department of Public Health and Human Services and is often called FAIM II, Families Achieving Independence in Montana, and it is the logical progression and evolution of welfare reform in the state of Montana. Montana has been a leader in the United States in welfare reform; it's been the second highest in work participation since the inception of welfare reform, and it's had a couple of awards for movement to the work force. In 1993 Montana started asking for waivers to the current system in order to provide welfare reform and eventually did get some waivers in 1995. In 1996 the federal Personal Responsibility and Welfare Opportunity Reconciliation Act (PRWORA) was passed, which provided the TANF or Temporary Assistance for Needy Families block grants and replaced what was basically a check writing system in the past, AFDC or Assistance for Families with Dependent Children. In 1999 the evolution has seen the final regulations. Montana can now recraft the laws for more flexibility and to do what is necessary within the framework provided, and that's what this bill is. In order to do that, and from whence this bill came, the department held 25 public meetings and 11 focus groups, including really everybody throughout the state: legislators, providers, participants, tribes, advocates and the public. SB 77 contains the statutory changes. A lot of it's minor, a lot of it's technical, some of it is clean-up language. There are some things that are significant and important. It clarifies that local offices of public assistance are part of the state system, not really county offices. It allows applicants to apply for welfare in whatever county they happen to be in. It eliminates some references to FAIM. It gives rulemaking authority to the department to limit the amounts of time and benefits to be received, in accordance with federal law. It eliminates references to some of the things that the state has built for the FAIM system such as terms like Pathways. There are four things that he considers attention-

getters. The most important is that it creates the framework for what they call a non-assistance program, to assist low-income working families that are at risk, what we often call the working poor, the folks that are just barely getting along and are at the risk of going back into the point where they've got to get cash assistance. This is to provide them non-assistance, really non-cash in programs such as training, transportation, disability services, job search, those sorts of things that they need to keep themselves viable and moving forward in the work force. It authorizes the tribes to use their own rules when they operate within their own TANF program, and there are two tribes that do that. It requires oversight; the families have to enter into a Family Investment Agreement and then use assessment and evaluation services to receive benefits. It allows the state to provide cash assistance and food stamps to individuals who have been convicted of drug-related offenses if they're still on probation and they follow their drug treatment programs and requirements. It's a way to help them out of the cycle they are in. HB 2 will make a lot of the decisions in terms of spending, and this provides the framework for doing that. He thinks the block grant is $44 million. TANF itself is $29 million. FAIM has been an excellent program in Montana, and Montana continues to be a leader. ***{Tape : 1; Side : A; Approx. Time Counter : 2.1 - 9.4}***

Proponents' Testimony:

Hank Hudson, Human & Community Services Div., DPHHS, said his department manages the TANF block grant, and he is present primarily to answer questions. The bill is an effort to update the statutes in Montana that address the issues of public assistance. Those statutes have been on the books since the original AFDC program and even before that. As federal laws changed, Montana has redesigned its programs and made an effort to engage in the most vigorous welfare reform efforts in the nation. We occasionally need to update our statutes to come into compliance, both with federal law and our own intentions. FAIM Phase II really has three goals. One goal is to assist people who remain on the case load, the 4,600 people who haven't left welfare yet, to make sure they are provided with the type of intensive services they need to succeed and leave the dependency of a monthly welfare check. The second goal is to assist those people who have left welfare but got stuck in poverty even though they are no longer receiving a welfare check; and that's the non-financial assistance piece that is included in many places in the bill. Right now the department doesn't have the authority to provide services with this block grant to people who are above the eligibility for just the cash benefit check. And that's one of the big goals of FAIM Phase II, to not just stop when people leave normal welfare, but to stick with them and try to get them out of poverty. The third goal is to put some of the block

grant money directly into the pockets of low-income families through programs such as individual development accounts and cash benefits for relatives who raise children for low-income families. The bill cites a lot of different sections and makes single one-word changes or small changes in those sections. He said rather than going through all of the changes, he would reiterate some of the more sensitive points. In many places there are references to non-financial assistance, and that is the authorization to assist people who have incomes higher than eligibility for just a welfare check. The intent is to operate this program up to 150 percent of poverty. For instance, if someone left welfare and took a job at a fast food restaurant and a year later was still working there at the same pay, still below poverty, the department could re-engage the person and provide training or whatever type of assistance the person might need to get a better job. That's one of the major changes that this bill creates. A second issue has to do with the clarification that the local offices of public assistance are state entities. They're working with the Mt. Assn. of Counties to clarify that these are state employees who are operating state programs, but will keep local government and local elected officials involved. Another change allows a person to apply for public assistance in any county, whether they live there or not. The bill replaces the term FAIM, which is a general sort of programmatic term. For purposes of statutory precision, they need to differentiate between TANF, which is the money the state gets from the federal government; assistance, which is the cash that a person gets in a check, financial assistance that starts the 30-hour work requirement and the 60-month time limit; and then non-assistance, which is what is provided to people they're trying to get out of poverty. This is not direct cash assistance to them, but might be the purchase of training, the purchase of clothing or tools, and it does not trigger the 60-month time limit or the 30-hour work requirement. Language is included in the bill that clearly in state statute authorizes tribes to operate their own separate TANF programs if they choose. There's already federal language that allows that. The department is asking for rule-making authority regarding limiting the time that people can receive benefits, which is already in federal law. A person can only receive financial assistance for 60 months during their lifetime. 20 percent of the state's caseload can exceed that 60 months. The bill eliminates current references to the Pathways, Community Service, and Job Supplement Programs, which is how they used to run FAIM before the federal law passed. They no longer have a community service program but have community service opportunities for people. The previous program was a formal program for people who didn't look like they would ever leave welfare, and the department wanted to make sure they were sort of earning their welfare check. Now with the 60-month time limit, that program is no longer needed. Pathways remains as sort of the central program of training and the cash assistance check. Job Supplement was a program they started to

provide people with all the services they could so they wouldn't need a welfare check, and they continue to do that, but it doesn't need a specific statutory delineation. The department is asking for the statutory authority that they currently have in rule to require that people enter into family investment agreements and the authority to require people to obtain assessments and evaluations that the department deems are appropriate. With 60-month time limits in place, the department feels that if a person refuses to seek an evaluation or assessment that the department feels is necessary, they want the authority to sanction them, which is a process they currently use to reduce the benefits of a person who does not comply with the family investment agreement. The final change relates to the federal law that states if a person has been convicted of a drug-related felony since August of 1996, the person can't receive food stamps or TANF benefits unless a state legislature specifically authorizes it. They ran the program in the first years denying people benefits who had drug felonies after that date, but they discovered during the focus groups that it is really counterproductive if a person has had a drug felony but they followed through on their probation and drug treatment and tried to get their life in order, to deny them and their children food stamps and cash benefits. It would encourage people to break the law again just to survive, and doesn't fit into the idea of rehabilitation and helping people. The Dept. of Corrections said they felt that they wanted people on probation to have every possible chance to succeed and not to put other barriers in their way. So it was included in the bill, and DPHHS believes it is good public policy. They would not provide benefits to people who had not followed the conditions of their probation or who, if required to receive a drug assessment and then treatment, did not follow that. Mr. Hudson said that the department is also offering amendments to the bill. One is a technical amendment that conforms to federal requirements that the state de-link AFDC from Medicaid. Before welfare reform, if a person got AFDC, they automatically got Medicaid. The federal law says a state can no longer make that link, but has to operate a separate Medicaid program called a Section 1931 Medicaid program. The other amendment would make the non-assistance provisions retroactive to January 1, 2001. The department is going to use some of their TANF money to pay for some mental health services to help resolve the supplemental situation within the department, and they want to make payments back to January 1, 2001. They'll do it under the non-assistance authority that is in the bill. **EXHIBIT(huh56a02)** ***{Tape : 1; Side : A; Approx. Time Counter : 9.4 - 21.7}***

Christine Amundson, Helena, Mt. Chapter, Nat. Assn. of Social Workers, presented written testimony in support of the bill. **EXHIBIT(huh56a01)** ***{Tape : 1; Side : A; Approx. Time Counter : 21.7 - 25.7}***

Opponents' Testimony: None

Questions from Committee Members and Responses:

Rep. Shockley asked **Karlene Grossberg, Bureau Chief, Public Assistance Bureau,** for details that would help him carry the bill in the House. He asked about a $26 million surplus, and **Ms. Grossberg** said there were some unspent TANF block grant funds from prior years. The original amount was $26-29 million, but that has been reduced through transfers to other divisions such as foster care, and the remaining amounts have been allocated into future year benefits as well as FAIM Phase II activities through HB 2. The money that remains unspent for prior years can only be used for cash assistance benefits, so HB 2 primarily addresses next year's block grant, the $44 million that comes in next year, plus the state's maintenance of effort money, and that is where the line items are delineated in HB 2 for expenditures. **Rep. Shockley** asked **Ms. Grossberg** to clarify the $29 million figure, and she said that the TANF block grant analysis showed the ending balance for year 2000 was $26 million, and the ending balance for 2001, which would be Sept. 30, 2001, is $29.7 million. That means that money has remained in the federal treasury, and the state must have a use for it before it can be drawn down. The "old money" that remains from prior years can only be spent on the cash benefits, and then the new money, which will be next year's block grant of $44 million, can be spent on the training and other non-financial assistance. **Rep. Shockley** asked **Ms. Grossberg** to explain what the 30 hours a week requirement means. **Ms. Grossberg** said that the federal law requires that for single-parent families the average has to be 30 hours a week, and for two-parent families, it's 35 hours a week. Those activities can be actual work, training, classes or a number of different things. They have to participate for the 30 or 35 hours, and all of those months count toward their 60 months. The only folks who would be exempt from the 60-month time limit would be those who are facing a hardship of some kind and the federal agency has allowed 20 percent of the caseload to receive benefits longer than 60 months.

Rep. Schmidt asked **Sen. Keenan** if he wanted to add something. **Sen. Keenan**, who serves on the Appropriations Subcommittee, said it would be helpful for **Rep. Shockley** to talk to **Rep. Lewis** about the specifics of the TANF-FAIM money. That money can be used for education. They've allocated about $16 million, one time only, to be spent in the next two years as a hand-up to all these people. The federal government will be reassessing all of their block grants, beginning in October, 2002, and if we have $20-some million in an account in Washington, DC that we haven't tapped into, there is a chance that they will scoop that up, and that will be half of our block grant in some future year, so we thought we'd spend it.

Rep. Schockley asked for clarification as to whether there is $26 million or whether it has already been appropriated as of today. **Sen. Keenan** said it is in the process, and he expected there to be a "food fight" over the money as there's a lot of money to spend in a lot of different ways. Money has been put into tribal programs and Head Start for day care and other programs.

Rep. Facey asked **Sen. Keenan** if the TANF one-time only money was money the state would use to try to pull these folks out of poverty and get them into higher-paying jobs, if that would commit the state to future expenditures. **Sen. Keenan** said they are being careful not to commit to future expenditures, but they are trying some experimental programs that might work for future funding.

Rep. Facey asked **Karlene Grossberg** if this could be considered boilerplate language for how the state would deal with TANF and welfare reform. **Ms. Grossberg** said the bill is pretty much the outline of what Montana needs to have in place to take the opportunity to use the flexibility that the federal agency has given us with this money. **Rep. Facey** asked how many TANF recipients Montana had four to six years ago. **Ms. Grossberg** said there were about 11,500, almost 12,000 families on assistance in 1995 and 1996, and right now we have about 4,600 families. **Rep. Facey** asked about how Montana has met the work requirements for FAIM participants. **Ms. Grossberg** said Montana was second in the nation for performance in the work requirement area. There's a provision in the federal welfare law, called a caseload reduction credit, that allows a state to reduce the percentage of families that need to be working. When you apply the caseload reduction credit with Montana's actual work participation, we have excelled, and this year we received about a $2.2 million bonus for our work participation rate. Without that caseload reduction credit, Montana may have been very close to not meeting the two-parent family rate, which is that 90 percent of those families have to be working, and our figure was 89 percent without the credit. With the credit, we were way above that.

Rep. Brown asked **Sen. Keenan** to clarify what he had said about education as a work requirement that would cost $14 million. **Sen. Keenan** said there have been several different figures passed around, and he thought the subcommittee was considering $16 or $17 million that was money aside from what the department had. Pat Gervais in the LFD has done a lot of work on the flexibility of these funds and how they can be used. Using the work requirement and considering school to be work was acceptable. The feds have opened up their flexibility on these funds quite a bit.
Rep. Brown asked why it costs money to allow people to use part of their time for education as part of the work requirement. **Sen. Keenan** said it would be cash assistance, and he thought they'd be

paying tuition as well as child care. Ms. Grossberg said she thinks HB 425 was the bill that was so costly, and that called for individuals to go to school with no time limit and provided that child care be paid on a one for two basis, two hours of child care would be paid for every credit hour that was being taken in college. That bill didn't meet the requirements of the Child Care Development Fund block grant for child care, and because the time limit and hours of work didn't coincide with federal TANF requirements, they felt it would have to be funded out of the state's maintenance of effort money, and that would have meant switching over present maintenance of effort program funding to federal funding or to eliminate some present programs.

Rep. Lee asked **Karlene Grossberg** if she received any input on this from WEAL or other groups. **Ms. Grossberg** said they received some input but not a lot on this bill, but had received considerable input on proposed line item expenditures such as housing, education and transportation. They haven't had a lot of comment on the technical provisions in SB 77, but the idea of restoring benefits to drug felons who had complied with their probation and treatment programs was accepted positively by the advocates. **Rep. Lee** asked if they had requested comments, and **Ms. Grossberg** said they had sent out copies of the draft bill several months ago.

Rep. Esp asked **Ms. Grossberg** if Mr. Hudson's statement about the removal of community service requirements from FAIM was true, and she said yes. When FAIM was designed with the community service component, the idea was that if families weren't working at the end of two years, they could go into community service in exchange for the cash grant. When the federal law was passed and it provided for a 60-month time limit on everyone, the feeling of Montana's workers, advocates and participants was that they should focus more intensely on training and services up front so they never had to reach the five years, so they sort of traded out the types of services provided to the families throughout the five years and said that community service could be a work experience. ***{Tape : 1; Side : A; Approx. Time Counter : 25.7 - 30} {Tape : 1; Side : B; Approx. Time Counter : 0 - 14}***

Closing by Sponsor:

Sen. Hargrove said that this bill is the framework, and the real decisions on the money that ultimately affect the program will be made in HB 2. All of the parts in this bill will be considered in that process, so this is the logical evolution and the welfare programs will continue to evolve, particularly as they have to relate to federal programs. It's important to do this, it's a good bill and it has received all of the right kinds of input and work. It passed the Senate with no "no" votes and he hopes it will do

that in the House as well. ***{Tape : 1; Side : B; Approx. Time Counter : 14 - 15.8}***

HEARING ON SB 82

Sponsor: SEN. BOB KEENAN, SD 38, Bigfork

Proponents: Dr. Donald Harr, Mt. Psychiatric Assn. & Mt. Medical Assn.
Dan Anderson, Dept. of Public Health & Human Services
Al Davis, Mental Health Assn. of Mt.
Sami Butler, Mt. Nurses' Assn.
Erin McGowan, Mt. Council of Community Mental Health Centers
Jim Ahrens, Pres., Mt. Hospital Assn.

Opponents: None

Opening Statement by Sponsor:

SEN. BOB KEENAN, SD 38, Bigfork, said this is a bill to clean up some statutes. When Montana came up with the managed care contract with Magellan two years ago, they went to work on a bill to try to rebuild the public mental health system. SB 534 became that vehicle in the 1999 session. This bill cleans up the statutes from that bill. It's not necessarily an active bill; it's more preventative in nature. He doesn't believe that the specifics of this bill in some areas, especially in managed care, will be used any time soon. As amended, the bill provides a higher degree of protection against repeating the mistakes that the state made with the mental health access plan and the resulting managed care private contract. Medicaid and non-medicaid mental health benefits are separated in the bill. The department is allowed to enter managed care agreements that can be tailored to local service needs. The bill requires adequate provider networks and that they demonstrate financial solvency. The Insurance Commissioner wanted to be taken out of this process, and that's why the language is in the bill. The department at this point in time has to fulfill this financial review outside with an independent reviewer. There is a zero fiscal note on the bill. Basically the bill is a rearrangement of items from SB 534, cleans up the past and is enabling legislation for future mental health bills, some of which are in the pipeline right now. Section 1 takes the Insurance Commissioner out of the picture if the state ever does have another managed care contract. Section 2 allows managed care and ties it to the medicaid statutes. Section 3 deals with eligibility for the mental health state plan, and this is already in mental health statutes in other places in the MCA. It does not change any eligibility; that's done internally. Section 4

HOUSE OF REPRESENTATIVE

ROLL CALL

HEALTH AND HUMAN SERVICES COMMITTEE

DATE 3/12/01

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL THOMAS, CHAIR	✓		
REP. ROY BROWN, V.C.	✓		
REP. TRUDI SCHMIDT, V.C.	✓		
REP. TOM DELL	✓		
REP. TOM FACEY	✓		
REP. D.HEMMELBERGER	✓		
REP. MICHELLE LEE	✓		
REP. MARK NOENNIG	✓		
REP. DIANE RICE	✓		
REP. CLARICE SCHRUMPF	✓		
REP. JAMES WHITAKER	✓		
REP. JOHN ESP	✓		
REP. DANIEL FUCHS	✓		
REP. LARRY JENT	✓		
REP. BRAD NEWMAN	✓		
REP. HOLLY RASER	✓		
REP. RICK RIPLEY	✓		
REP. JIM SHOCKLEY	✓		

EX 1
3/12/01
SB 77

NASW
NATIONAL ASSOCIATION
OF SOCIAL WORKERS
Montana Chapter

March 12, 2001

Chairman Thomas, Committee members, and guests my name is Christine Amundson from Helena. I am currently a senior in Social Work at Carroll College and a student intern, member, and representative of 450 members of the Montana Chapter of the National Association of Social Workers. It is in these capacities and in accordance with the NASW Code of Ethics governing our profession that I support the proposed revision of the laws governing public assistance contained in Senate Bill (SB) 77 sponsored by Senator Don Hargrove.

Section 6.04 of the NASW Code of Ethics states "Social Workers should engage in social and political action that seeks to ensure that all people have equal access to the resources, employment, services, and opportunities they require to meet their basic human needs and to develop fully. Social Workers should be aware of the impact of the political arena on practice and should advocate for changes in policy and legislation to improve social conditions in order to meet basic human needs and promote social justice." The proposed revisions in SB 77 attempt to bring social justice to the laws governing public assistance, especially Section 22 that revises 53-4-231 of the MCA. This section outlines the requirements for eligibility with the new subsection (3) allowing person convicted of a drug felony after August 22, 1996 eligibility only if they are in compliance with requirements that are even more stringent than the eligibility requirements (subsection (4) h – as stated in 53-4-231 of the MCA) imposed on other convicted felons of more serious offenses than drug possession.

While on the surface this proposed revision seems to apply only to those making application for assistance, it does something even more important – it brings social justice to those persons even more oppressed by the former drug felon law – the children of these individuals. Children are the unseen and unheard victims of society's distaste for those receiving public assistance. These children have no control over their parent's economic, mental, physical, moral, or legal problems, however they are the ones that suffer the consequences. Therefore, let us remember that these proposed revisions in SB 77 will allow parents taking the appropriate steps to overcome their mistakes of the past to provide the basic human needs of their children so they may continue to work towards improving the future of their family.

In conclusion, I urge the members of the House Human Services Committee to show your compassion and commitment to social justice to the children, parents, and all Montanans by voting for SB 77. Thank you for your time and consideration of this important legislation.

Respectfully submitted,
Christine R. Amundson

25 South Ewing Suite 406
Helena, MT 59601
406/449-6208
fax 406/449-2533

EAD2
3/12/01
SB 77

Amendments to SB 77
Requested by the Department of Public Health & Human Services
Amended Introduced Copy

1. Title, Line 15.
Following "53-4-246,"
Strike: "53-4-247,"

2. Page 30, Lines 1 through 5.
Strike: Section 26 in its entirety
Renumber: subsequent sections

3. Page 30, Line 20.
Insert additional subsection: "(5) "Section 1931 medicaid" means medical assistance for families who are eligible for medicaid based on the State's approved AFDC standards for 1996 increased each year by the consumer price index."

4. Page 32, Line 14 through 16.
Following "A family receiving ~~FAIM~~"
Strike: "financial assistance"
Insert: "Section 1931 medicaid"
Following "because of increased income"
Insert: "to the assistance unit"

5. Page 39, Line 6 through 7.
Following "persons receiving benefits from ~~FAIM~~"
Strike: "financial assistance, as defined in 53-4-201"
Insert: "Section 1931 medicaid, as defined in 53-4-602"
Following "because of increased income"
Insert: "to the assistance unit"

6. Page 39, Line 24 through 25.
Strike: subpart (d) in its entirety
Renumber: subsequent subparts

7. Page 40, Line 28 through page 41, line 1.
Following "an individual receiving ~~FAIM~~"
Strike: "financial assistance, as defined in 53-4-201"
Insert: "Section 1931 medicaid, as defined in 53-4-602"
Following "a dependent child under"

Strike: "the FAIM project and to all adult recipients of medical assistance only who are covered under a group related to the program of ~~FAIM~~ financial assistance."
Insert: "the Section 1931 medicaid program."

8. Page 42, Line 10 through 11.
Following "**terminated from ~~FAIM~~**"
Strike: "**financial assistance**"
Insert: "**Section 1931 medicaid**"

9. Page 42, Line 20 through 22.
Following "for persons receiving ~~FAIM~~"
Strike: "financial assistance, as defined in 53-4-201"
Insert: "Section 1931 medicaid, as defined in 53-4-602"
Following "who lose eligibility because of increased"
Insert: "earned or unearned"
Following "income"
Strike: "from any source"
Insert: "to the assistance unit"

10. Page 43, Line 20
Insert: "NEW SECTION. [Sections 8, 12, 14, 18, 20, 24 and 32] apply retroactively, within the meaning of 1-2-109, to all occurrences after January 1, 2001."

End

Prepared by:

Christine Killgore-Lannan
Agency Legal Counsel
DPHHS
1400 Broadway, B201
Helena, MT 59620
(406) 444-5331

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER
HEALTH AND HUMAN SERVICES

DATE 3/12/01 Mon.

BILL NO. SB #77 SPONSOR(S) Hargrove

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	Christine Amundson	Helena	MT-NASW
P O (I)	Harlene Grossberg	Helena DPHHS- public Asst.	
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on March 20, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: Rep. Tom Dell (D)
Rep. Michelle Lee (D)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: SB 77, SB 171, SB 309, SB 82

EXECUTIVE ACTION ON SB 77

Motion: **REP. BROWN** moved that **SB 77 BE CONCURRED IN.** ***{Tape : 1; Side : A; Approx. Time Counter : 0 - 1.5}***

Motion/Vote: **REP. BROWN** moved that **SB 77 BE AMENDED. Motion carried unanimously.**EXHIBIT**(huh63a01)** ***{Tape : 1; Side : A; Approx. Time Counter : 1.5 - 4.5}***

Discussion: **Rep. Brown** explains his amendment. This amendment on page 32, line 25 of the bill in 53-4-607. The department may count education activities as an allowable activity and a family investment agreement for up to 60 months in the same project cash assisted program consistent with federal law. I think the reason why I want to propose this amendment is because it was originally in another bill that got tabled. We were talking about trying to put it in HB 2, but there did not seem to be a program that it would fit in because it is not really an appropriations bill.

Motion/Vote: **REP. LEE** moved that **SB 77 BE AMENDED.**EXHIBIT**(huh63a02) Motion failed 6-12 with Dell, Facey, Lee, Newman, Raser, and Schmidt voting aye.** ***{Tape : 1; Side : A; Approx. Time Counter : 3.9 - 4.4}***

Motion: **REP. FACEY** moved that **SB 77 BE CONCURRED IN AS AMENDED.** ***{Tape : 1; Side : A; Approx. Time Counter : 4.4 - 16.8}***

Motion/Vote: **REP. SHOCKLEY** moved that **SB 77 BE AMENDED.**EXHIBIT**(huh63a03) Motion carried 17-2 with Esp and Fuchs voting no.** ***{Tape : 1; Side : A; Approx. Time Counter : 16.8 - 20.7}***

Motion/Vote: **REP. SCHMIDT** moved that **SB 77 BE CONCURRED IN AS AMENDED. Motion carried 14-4 with Esp, Fuchs, Rice, and Ripley voting no.** ***{Tape : 1; Side : A; Approx. Time Counter : 20.7 - 28}***

EXECUTIVE ACTION ON SB 171

Motion: **REP. SCHMIDT** moved that **SB 171 BE CONCURRED IN.** ***{Tape : 1; Side : A; Approx. Time Counter : 28 - 30}***

Motion: **REP. SCHMIDT** moved that **SB 171 BE AMENDED.** EXHIBIT**(huh63a04)** ***{Tape : 1; Side : B; Approx. Time Counter : 0 - 2}***

Discussion: Schmidt withdrew amendment. ***{Tape : 1; Side : B; Approx. Time Counter : 2 - 2.5}***

HOUSE OF REPRESENTATIVE

ROLL CALL

HEALTH AND HUMAN SERVICES COMMITTEE

DATE 3/20/01

NAME	PRESENT	ABSENT	EXCUSED
REP. BILL THOMAS, CHAIR	✓		
REP. ROY BROWN, V.C.	✓		
REP. TRUDI SCHMIDT, V.C.	✓		
REP. TOM DELL			X
REP. TOM FACEY	✓		
REP. D.HEMMELBERGER	✓		
REP. MICHELLE LEE	✓		X
REP. MARK NOENNIG	✓		
REP. DIANE RICE	✓		
REP. CLARICE SCHRUMPF	✓		
REP. JAMES WHITAKER	✓		
REP. JOHN ESP	✓		
REP. DANIEL FUCHS	✓		
REP. LARRY JENT	✓		
REP. BRAD NEWMAN	✓		
REP. HOLLY RASER	✓		
REP. RICK RIPLEY	✓		
REP. JIM SHOCKLEY	✓		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

HEALTH AND HUMAN SERVICES_COMMITTEE

DATE 3/20/01 Bill NO. 77 NUMBER _____

MOTION: See Amend 6-12

Name	AYE	NO
REP. BILL THOMAS, CHAIRMAN		X
REP. ROY BROWN, V C MAJORITY		X
REP. TRUDI SCHMIDT, V C MINORITY	X	
REP. TOM DELL	X	
REP. TOM FACEY	X	
REP. DENNIS HIMMELBERGER		X
REP. MICHELLE LEE	X	
REP. CLARICE SCHRUMPF		X
REP. JAMES WHITAKER		X
REP. JOHN ESP		X
REP. DANIEL FUCHS		X
REP. LARRY JENT		X
REP. HOLLY RASER	X	
REP. BRAD NEWMAN	X	
REP. MARK NOENNIG		X
REP. RICK RIPLEY		X
REP. DIANE RICE		X
REP. JIM SHOCKLEY		X

EXHIBIT
3/20/01
SB 77

Amendments to Senate Bill No. 77
3rd Reading Copy

Requested by Representative Roy Brown

For the House Human Services Committee

Prepared by Susan Byorth Fox
March 20, 2001 (1:22PM)

1. Page 32, line 25.
Following: "53-4-606."
Insert: "The department may count education activities as an allowable work activity in a family investment agreement for up to 60 months in a FAIM project cash assistance program consistent with federal law."

- END -

EXHIBIT 2
3/20/01
SB 77

Amendments to Senate Bill No. 77
3rd Reading Copy

Requested by Representative Michelle Lee

For the Senate Public Health, Welfare and Safety Committee

Prepared by Susan Byorth Fox
March 14, 2001 (1:31PM)

1. Title, line 12.
Following: "PROGRAM;"
Insert: "PROVIDING FOR DEVELOPMENT OF A MODEL CHILD SUPPORT ASSURANCE PROGRAM AND A REPORT TO THE 58TH LEGISLATURE;"

2. Title, line 18.
Following: "DATE"
Insert: "AND A TERMINATION DATE"

3. Page 43, line 11.
Insert: "NEW SECTION. **Section 43. Development of model child support assurance program.** (1) The department of public health and human services shall create a team to develop a plan for a child support assurance program. The team must consist of:

(a) a representative of the department responsible for administering public assistance programs;

(b) a representative of the department responsible for administering child support enforcement;

(c) a representative of advocates for low-income persons, selected by the advocacy groups;

(d) a participant in a child support assurance program;

(e) a representative and a senator, selected by legislative leadership.

(2) The team shall contract with a consultant to work with the team to develop a model child support assurance program with the assumption that the temporary assistance for needy families block grant will be reauthorized at current levels. Past legislation on child support assurance must be considered as a part of the development of the program.

(3) The department shall present a report on the activities of the contractor and the team to the children, families, health, and human services interim legislative committee by August 15, 2002, and shall present legislation for a child support assurance program for consideration by the 58th legislature."
Renumber: subsequent sections

4. Page 43, line 20.

Following: line 19
Insert: "NEW SECTION. **Section 47. {standard} Termination.** [Section 43] terminates June 30, 2003."

- END -

EXHIBIT 3
3/20/01
SB 77

Amendments to Senate Bill No. 77
3rd Reading Copy

Requested by Senator Don Hargrove

For the House Human Services Committee

Prepared by David Niss
March 19, 2001 (2:01PM)

1. Title, line 15.
Strike: "53-4-247,"

2. Title, line 18.
Following: "DATE"
Insert: "AND A RETROACTIVE APPLICABILITY DATE"

3. Page 30, line 1 through line 5.
Strike: section 26 in its entirety
Renumber: subsequent sections

4. Page 30.
Following: line 19
Insert: "(5) "Section 1931 medicaid benefits" means medical assistance authorized by 42 U.S.C. 1396u-1 for families eligible for the Montana medicaid program, as established in Title 53, chapter 6, based on the department's income limitations, as increased each year by that year's increase in the Consumer Price Index for Urban Wage Earners, complied by the U.S. department of labor, bureau of labor statistics, and other standards approved by the federal government for 1996 for the federal aid to families with dependent children program, as that program was established under Title IV of the federal Social Security Act (42 U.S.C. 601, et seq.)."

5. Page 32, line 14 through line 15.
Strike: "financial assistance"

6. Page 32, line 15.

Following: "~~project~~"
Insert: "section 1931 medicaid benefits"

7. Page 32, line 16.
Following: "~~source~~"
Insert: "to the assistance unit, as that term is defined in the rules of the department,"

8. Page 39, line 6.
Strike: "benefits from" through "53-4-201,"

9. Page 39, line 7.
Following: "~~project~~"
Insert: "section 1931 medicaid benefits, as defined in 53-4-602,"
Following: "income"
Insert: "to the assistance unit, as that term is defined in the rules of the department"

10. Page 39, line 24 through line 25.
Strike: subsection (d) in its entirety
Renumber: subsequent subsections

11. Page 39, line 28.
Strike: "(1)(e)"
Insert: "(1)(d)"

12. Page 40, line 28 through line 29.
Strike: "financial assistance" on lines 28 and 29
Insert: "section 1931 medicaid benefits"

13. Page 40, line 29.
Strike: "53-4-201"
Insert: "53-4-602"

14. Page 40, line 30 through page 41, line 1.
Strike: "FAIM" on page 40, line 30 through "financial assistance" on page 41, line 1
Insert: "section 1931 medicaid program"

15. Page 42, line 11.
Strike: "**financial assistance**"
Insert: "**section 1931 medicaid program**"

16. Page 42, line 20.
Strike: "financial" through "53-4-201,"

17. Page 42, line 22.
Following: "~~53-4-603~~"
Insert: "section 1931 medicaid benefits, as defined in 53-4-602,"
Following: "increased"
Insert: "earned or unearned"
Strike: "from any source"

18. Page 42, line 23.
Following: "~~disregards~~"
Insert: "to the assistance unit, as that term is defined in the rules of the department"

19. Page 43.
Following: line 19
Insert: "**Insert:** "NEW SECTION. **Section 45.. {standard} Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to payments made after January 1, 2001, for mental health services provided to children with serious emotional disturbances for whom mental health services are not provided by any other public mental health services program and whose family income is at or below 150% of the federal poverty level."

- END -

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Human Services** recommend that **Senate Bill 77** (third reading copy - blue) **be concurred in as amended.**

Signed: Rep. Bill Thomas, Chair
Representative Bill Thomas, Chair

To be carried by Representative Jim Shockley

And, that such amendments read:

1. Title, line 15.
Strike: "53-4-247,"

2. Title, line 18.
Following: "DATE"
Insert: "AND A RETROACTIVE APPLICABILITY DATE"

3. Page 30, line 1 through line 5.
Strike: section 26 in its entirety
Renumber: subsequent sections

4. Page 30.
Following: line 19
Insert: "(5) "Section 1931 medicaid benefits" means medical assistance authorized by 42 U.S.C. 1396u-1 for families eligible for the Montana medicaid program, as established in Title 53, chapter 6, based on the department's income limitations, as increased each year by that year's increase in the Consumer Price Index for Urban Wage Earners, complied by the U.S. department of labor, bureau of labor statistics, and other standards approved by the federal government for 1996 for the federal aid to families with dependent children

Committee Vote:
Yes 14, No 4.

program, as that program was established under Title IV of the federal Social Security Act (42 U.S.C. 601, et seq.)."

5. Page 32, line 14 through line 15.
Strike: "financial assistance"

6. Page 32, line 15.
Following: "~~project~~"
Insert: "section 1931 medicaid benefits"

7. Page 32, line 16.
Following: "~~source~~"
Insert: "to the assistance unit, as that term is defined in the rules of the department,"

8. Page 32, line 25.
Following: "53-4-606."
Insert: "The department may count education activities as an allowable work activity in a family investment agreement for up to 60 months in a FAIM project cash assistance program consistent with federal law."

9. Page 39, line 6.
Strike: "benefits from" through "53-4-201,"

10. Page 39, line 7.
Following: "~~project~~"
Insert: "section 1931 medicaid benefits, as defined in 53-4-602,"
Following: "income"
Insert: "to the assistance unit, as that term is defined in the rules of the department"

11. Page 39, line 24 through line 25.
Strike: subsection (d) in its entirety
Renumber: subsequent subsections

12. Page 39, line 28.
Strike: "(1)(e)"
Insert: "(1)(d)"

13. Page 40, line 28 through line 29.
Strike: "financial assistance" on lines 28 and 29
Insert: "section 1931 medicaid benefits"

14. Page 40, line 29.
Strike: "53-4-201"
Insert: "53-4-602"

15. Page 40, line 30 through page 41, line 1.
Strike: "FAIM" on page 40, line 30 through "financial assistance" on page 41, line 1
Insert: "section 1931 medicaid program"

16. Page 42, line 11.
Strike: "**financial assistance**"
Insert: "**section 1931 medicaid program**"

17. Page 42, line 20.
Strike: "financial" through "53-4-201,"

18. Page 42, line 22.
Following: "~~53-4-603~~"
Insert: "section 1931 medicaid benefits, as defined in 53-4-602,"
Following: "increased"
Insert: "earned or unearned"
Strike: "from any source"

19. Page 42, line 23.
Following: "~~disregards~~"
Insert: "to the assistance unit, as that term is defined in the rules of the department"

20. Page 43.
Following: line 19
Insert: "**Insert:** "NEW SECTION. **Section 45. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to payments made after January 1, 2001, for mental health services provided to children with serious emotional disturbances for whom mental health services are not provided by any other public mental health services program and whose family income is at or below 150% of the federal poverty level."

- END -

AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE; DEFINING FINANCIAL ASSISTANCE AND NONFINANCIAL ASSISTANCE TO COMPORT WITH FEDERAL LAW; REMOVING AUTHORITY FOR ONE-TIME-ONLY INCOME EXCLUSIONS FOR SPECIAL EMPLOYMENT-RELATED NEEDS; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE DURATION OF BENEFITS AND ELIGIBILITY FOR NONFINANCIAL ASSISTANCE; CLARIFYING SANCTIONS FOR FAILURE OR REFUSAL TO COMPLY WITH FAMILY INVESTMENT AGREEMENTS; REMOVING REFERENCES TO PATHWAYS AND THE COMMUNITY SERVICES PROGRAM; REMOVING THE DESIGNATED COMPONENTS OF THE FAIM PROGRAM; AMENDING SECTIONS 23-1-303, 39-7-303, 39-71-118, 39-71-123, 40-4-215, 40-5-242, 40-5-248, 53-2-201, 53-2-211, 53-2-606, 53-2-610, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-2-904, 53-2-1103, 53-4-201, 53-4-202, 53-4-212, 53-4-214, 53-4-231, 53-4-233, 53-4-241, 53-4-246, 53-4-602, 53-4-606, 53-4-611, 53-4-612, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, 53-6-101, 53-6-113, 53-6-131, 53-6-132, 53-6-134, AND 53-24-106, MCA; REPEALING SECTIONS 53-4-247, 53-4-603, 53-4-607, 53-4-608, AND 53-4-701, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-1-303, MCA, is amended to read:

"**23-1-303. Powers and duties of the division.** The division, in cooperation with the department, may:

(1) hire a corps coordinator;

(2) coordinate with state agencies to place eligible participants in work experience projects, including those recipients of ~~FAIM~~ financial assistance, as defined in ~~53-2-902~~ 53-4-201, utilizing grant diversion funding and to place youth who are under state supervision utilizing payments from the department of public health and human services;

(3) develop and approve work experience projects that meet the requirements of this part;

(4) ensure that work experience projects involve labor-intensive improvements to public lands or facilities that will result in a public value and have a potential to yield revenue;

(5) execute contracts or cooperative agreements containing the terms and conditions necessary and desirable for the employment of crewleaders and corpsmembers in approved work experience projects with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

(6) execute contracts or cooperative agreements with federal, state, or local agencies, persons, partnerships, associations, or corporations for the purpose of administering the requirements of this part;

(7) develop procedures for awarding incentive vouchers;

(8) authorize use of the corps for emergency projects, including but not limited to natural disasters, fire prevention and suppression, and rescue of lost or injured persons, and provide adequate training to corpsmembers prior to participation in an emergency project;

(9) apply for and accept grants or contributions of services, funds, or lands from any public or private donors, including the acceptance of federal funds appropriated by the legislature;

(10) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment necessary to complete work experience projects; and

(11) adopt rules and guidelines necessary to implement the provisions of this part and to effectively administer the program."

Section 2. Section 39-7-303, MCA, is amended to read:

"**39-7-303. Definitions.** As used in this part, the following definitions apply:

(1) "Adult" means a person who is 18 years of age or older.

(2) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701.

(3) "Displaced homemaker" means an adult who:

(a) has worked as an adult primarily without remuneration to care for the home and family and for that reason has diminished marketable skills and who has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

(b) (i) is a parent whose youngest dependent child will become ineligible to receive financial assistance ~~under the FAIM financial assistance~~, as defined in ~~53-2-902~~ 53-4-201, pursuant to Title 53, chapter 4, part 2, within 2 years of the parent's application for displaced homemaker assistance;

(ii) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate; or

(iii) meets the qualifications described in subsection (3)(a) or (3)(b) and is a criminal offender."

Section 3. Section 39-71-118, MCA, is amended to read:

"**39-71-118. Employee, worker, volunteer, and volunteer firefighter defined.** (1) The term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in this chapter, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as defined in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in this chapter, and whether

or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

(g) a person who is an enrolled member of a volunteer fire department, as described in 7-33-4109, or a person who provides ambulance services under Title 7, chapter 34, part 1; and

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704 is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for ~~participants in the FAIM project~~ recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's ~~FAIM~~ public assistance participants and may only be for the duration of each participant's training ~~in the FAIM project~~ while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment;

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(d) serving as a foster parent, licensed as a foster care provider in accordance with 41-3-1141, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

(4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a fire company organized and funded by a county, a rural fire district, or a fire service area.

(b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an employer, including but not limited to training time, response time, and time spent at the employer's premises.

(5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter

following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $900 a month and not more than 1 1/2 times the average weekly wage, as defined in this chapter.

(6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $200 a week and not more than 1 1/2 times the average weekly wage, as defined in this chapter.

(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly wage divided by 40 hours, subject to a maximum of 1 1/2 times the average weekly wage.

(8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(10) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(11) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection (10)(d)."

Section 4. Section 39-71-123, MCA, is amended to read:

"**39-71-123. Wages defined.** (1) "Wages" means all remuneration paid for services performed by

an employee for an employer, or income provided for in subsection (1)(d). Wages include the cash value of all remuneration paid in any medium other than cash. The term includes but is not limited to:

(a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness ~~periods~~;

(b) backpay or any similar pay made for or in ~~regards~~ regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;

(c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;

(d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;

(e) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and

(f) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.

(2) The term "wages" does not include any of the following:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(b) the amount of the payment made by the employer for employees, if the payment was made for:

(i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(ii) sickness or accident disability under a workers' compensation policy;

(iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;

(iv) death, including life insurance for the employee or the employee's immediate family;

(c) vacation or sick leave benefits accrued but not paid;

(d) special rewards for individual invention or discovery; or

(e) monetary and other benefits paid to a person as part of public assistance ~~provided through~~

~~the FAIM project~~, as defined in ~~53-4-702~~ 53-4-201.

(3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) The compensation benefits for a covered volunteer must be based on the average actual wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual wages of all employments, except for the wages earned by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred."

Section 5. Section 40-4-215, MCA, is amended to read:

"**40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person

requesting the investigation is a recipient of ~~cash assistance under the temporary assistance for needy families block grant, FAIM~~ financial assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined in 53-2-902, ~~food stamps, or public assistance~~ and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid from the fees for filing petitions for contested amendment of a parenting plan, as provided in 25-1-201(9).

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

(a) parenting education;

(b) mediation pursuant to 40-4-301;

(c) factfinding by the investigator; and

(d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has information about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child ~~has reached the age of~~ is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has

consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 6. Section 40-5-242, MCA, is amended to read:

"**40-5-242. Notice of support lien -- civil liability upon failure to honor support lien or to comply with warrant for distraint.** (1) The department may, at any time after asserting a support lien, serve a notice of the lien on any person, firm, corporation, association, or political subdivision or department of the state in possession of any real or personal property that is due, owing, or belonging to an obligor. For this purpose, personal property includes the obligor's share of a decedent's estate, workers' compensation benefits, and any proceeds or potential proceeds from suits at law. Except as provided in subsections (1)(a) and (1)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial assistance program~~ for temporary assistance for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(2) Except as provided in subsection (3), a person or entity is liable to the department in an amount equal to 100% of the value of a support lien or warrant for distraint or the value of real or personal property subject to a support lien or distrained by a warrant for distraint, whichever is less, together with costs, interest, and reasonable attorney fees, if the person or entity:

(a) pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien, to or for the benefit of the obligor, after the person or entity receives actual notice of filing of the

support lien; or

(b) fails or refuses to surrender upon demand property of an obligor when presented with a warrant for distraint by a sheriff or levying officer under the provisions of 40-5-247.

(3) A person or entity is not liable to the department under this section when:

(a) a written release or waiver of the support lien or warrant for distraint issued by the department has been delivered to the person or entity;

(b) a determination has been made in an adjudicative proceeding, either administrative or judicial, that a support lien does not exist or that the lien has been satisfied; or

(c) the property subject to a support lien has been transferred to, paid over to, or repossessed by a person or entity holding:

(i) a prior perfected lien;

(ii) a mortgage, the proceeds of which were used by the obligor to purchase real property; or

(iii) a perfected purchase money security interest, as [defined by 30-9-107] described by 30-9-321. (Bracketed reference deleted July 1, 2001.)"

Section 7. Section 40-5-248, MCA, is amended to read:

"**40-5-248. Lien against real and personal property -- effect of lien -- interest -- warrant for distraint.** (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as [defined in 30-9-107] described in 30-9-321.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until 2 years after the child to whom the support lien is related attains the age of majority, whichever occurs first.

(5) The lien applies to all real and personal property owned by the obligor if it can be located in the state. The lien applies to all real and personal property that the obligor can afterward acquire. Except as provided in subsections (5)(a) and (5)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial~~ for temporary assistance ~~program~~ for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(6) The department shall keep a record of support liens asserted under this section in the registry of support orders established by 40-5-271.

(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of ownership is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance

with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under [30-9-401] 30-9-321. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer, in the ordinary course of business, who buys an obligor's personal property for value and who buys in good faith and without knowledge of the support lien takes the property free of the support lien.

(9) (a) The department may charge interest on the support lien at the rate of 1% per month.

(b) Interest accrues at the close of the business day on the last day of each month and is calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end of the day, by the applicable rate of interest.

(c) A provision of this section may not be construed to require the department to maintain interest balance due accounts. The department may waive interest if waiver would facilitate the collection of the debt.

(d) Interest under this subsection (9) is in addition to and not in substitution for any other interest accrued or accruing under any other provision of law.

(10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the department shall take all necessary steps to release the support lien.

(b) Upon receiving partial payment of the support lien or if the department determines that a release or partial release of the lien will facilitate the collection of support arrearages, the department may release or partially release the support lien. The department may release the support lien if it determines that the lien is unenforceable.

(11) A support lien under this section is in addition to any other lien created by law.

(12) A support lien under this section may not be discharged in bankruptcy.

(13) Support liens provided for by this section may be enforced or collected through the warrant for distraint provided for by 40-5-247. (Bracketed references deleted July 1, 2001.)"

Section 8. Section 53-2-201, MCA, is amended to read:

"**53-2-201. Powers and duties of department.** (1) The department shall:

(a) administer and supervise public assistance, including the provision of food stamps, food commodities, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance, employment and training services for recipients of public assistance, and other programs as necessary to strengthen and preserve families;

(b) give consultant service to private institutions providing care for adults who are needy, indigent, or dependent or who have disabilities;

(c) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(d) ~~provide services in respect to organization~~ organize and supervise ~~county departments~~ the local offices of public ~~welfare and county boards of public welfare~~ assistance in ~~the administration of public assistance functions and for efficiency and economy~~ an efficient and economical manner;

(e) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when requested, by performing services in conformity with public assistance purposes;

(f) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

(g) make rules governing payment for services and supplies provided to recipients of public assistance; and

(h) adopt rules regarding assignment of monetary and medical support upon application for ~~FAIM~~ financial assistance, as defined in 53-2-902, and related medical assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property that is necessary to carry out its public assistance functions. Title to property obtained under this subsection must be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The

department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance."

Section 9. Section 53-2-211, MCA, is amended to read:

"**53-2-211. Department to share eligibility data.** (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and ~~the~~ workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance~~,~~ and weatherization. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in 15-30-303(8)(c).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of

the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income energy assistance, weatherization, or other public assistance. ~~The information may be disclosed only for purposes directly connected with the administration of a program or purpose of the agency and may not be used by the agency for any other purpose.~~"

Section 10. Section 53-2-606, MCA, is amended to read:

"**53-2-606. Right of appeal.** (1) If an application for assistance for food stamps, ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made with which the applicant or recipient is not satisfied, the applicant or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing to the department of public health and human services. The board of public assistance shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a county welfare board and may consider any application upon which a decision has not been made by the county board within a reasonable time from the filing of the decision. The department may have an additional ~~investigation~~ eligibility determination made and shall make a decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of this title.

(3) If the department reviews a county decision on its own motion, applicants or recipients affected by the decisions of the department shall upon request be given reasonable notice and an opportunity for a fair hearing by the board of public assistance.

~~(4) All decisions of the department or the board of public assistance are final and are binding and must be complied with by the county department.~~"

Section 11. Section 53-2-610, MCA, is amended to read:

"**53-2-610. County to reimburse department.** (1) On or before the 20th of each month, the department shall present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county to recipients during the month and for vendor medical payments

made on behalf of recipients in the previous month. The county department shall make the reimbursement to the department within 20 days after the claim is presented.

(2) The counties may not be required to reimburse the department for:

(a) any portion of public assistance paid to a household eligible for ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, if the household includes an enrolled Indian who is the caretaker relative of a needy dependent child; or

(b) any payment on behalf of any person in a state-operated medical institution.

(3) (a) From the original date of entrustment or the original date of state residency, whichever is earlier, recipients of public assistance who become wards or patients in a licensed nursing home or hospital, foster home, or private charitable institution are the financial responsibility of the appropriate county as provided in subsections (3)(b) through (3)(d).

(b) The county in which commitment of an adult is initiated is considered the county of financial responsibility except when a court decree declares the residency to be otherwise. When an adult is transferred from a facility or institution to one of the facilities listed in subsection (3)(a), the county that initiated the original commitment is considered the county of financial responsibility except in the case of an adult transfer from an out-of-state institution, in which case the county in which the facility is located is considered the county of financial responsibility.

(c) In all cases in which a minor patient or ward is involved, the county of financial responsibility is the county in which the parent or guardian resides. If the custody of a minor is entrusted to a state agency, the agency may make a reasonable declaration of the county residency of its ward using applicable guidelines enumerated in this section.

(d) If a person is or becomes an adult while in an institution, the person may determine the county of residence when the person is restored to competency and released. The person becomes the financial responsibility of the new county of residence."

Section 12. Section 53-2-613, MCA, is amended to read:

"**53-2-613. Application for assistance -- assignment of support rights.** (1) Applications for public assistance, including but not limited to ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, and medical assistance, ~~must~~ may be made ~~to the county department of public welfare in~~

~~the county~~ in ~~which the person is residing~~ any local office of public assistance. The application must be submitted, in the manner and form prescribed by the department, and must contain information required by the department.

(2) A person who signs an application for ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance assigns to the state, to the department, and to the county ~~welfare department~~, if county funds were used to pay for services, all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or in behalf of any other family member for whom application is made. A person who signs an application for public assistance other than ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance may, in accordance with rules adopted by the department, be required to assign to the state, to the department, and to the county ~~welfare department~~ all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or on behalf of any other family member for whom application is made.

(3) The assignment:

(a) is effective for both current and accrued support, including unpaid support that accrued before the applicant received public assistance, and medical obligations;

(b) takes effect upon a determination that the applicant is eligible for public assistance; and

(c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

(4) If a person who is the legal custodian and child support obligee under a support order relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical custody of the child, except for any unpaid support still owing under the assignment at that time.

(5) Whenever a child support or spousal support obligation is assigned to the department pursuant to this section, the following provisions apply:

(a) If the support obligation is based upon a judgment or decree or an order of a court of

competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse the cumulative total of public assistance money expended.

(b) A recipient or former recipient of public assistance may not commence or maintain an action to recover or enforce a delinquent support obligation or make any agreements with any other person or agency concerning the support obligation, except as provided in 40-5-202.

(c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay over or release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant to a judgment or decree or an order of the court until the department's child support enforcement division has filed a written notice that:

(i) the assignment of current support amounts has been terminated; and

(ii) all assigned support delinquencies, if any, are satisfied or released.

(d) A recipient or former recipient of public assistance may not take action to modify or make any agreement to modify, settle, or release any past, present, or future support obligation unless the department's child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or agreements entered into without the participation of the department are void with respect to the state, the department, and the county welfare department.

(e) A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order."

Section 13. Section 53-2-901, MCA, is amended to read:

"**53-2-901. Administration of food stamp program -- rulemaking authority.** (1) The department is authorized to administer the food stamp program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the food stamp program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of ~~FAIM~~ financial assistance who have been sanctioned because of failure to meet any requirement of that program.

(4) The department may adopt rules that include but are not limited to rules concerning:

(a) requirements for recipients to assign the right of support;

(b) requirements for recipients to cooperate with the state agency administering the child support enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

(c) disqualification for failure to perform actions required by other means-tested programs, for failure to cooperate with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C. 2015."

Section 14. Section 53-2-902, MCA, is amended to read:

"**53-2-902. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of public health and human services provided in Title 2, chapter 15, part 22.

(2) "Employment and training demonstration project" means the employment and training program for recipients of ~~FAIM~~ financial assistance who are participating in the FAIM project.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(3) "FAIM project" means the families achieving independence in Montana project, including the ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

(4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(5) "Food stamp program" means the provision of food stamp benefits that can be used to purchase food to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.

(6) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(7) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C. 601, et seq."

Section 15. Section 53-2-903, MCA, is amended to read:

"**53-2-903. Employment and training program.** The department shall establish and administer an employment and training program for food stamp recipients that is in compliance with federal requirements. For purposes of the FAIM project, in accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may merge its food stamp program employment and training program with its ~~FAIM~~ financial assistance employment and training program or may modify the rules and requirements of the food stamp program employment and training program as necessary to make them consistent with those of the employment and training demonstration project."

Section 16. Section 53-2-904, MCA, is amended to read:

"**53-2-904. Income and resource exclusions -- FAIM participants.** In accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may by rule establish special income and resource exclusions to be applied to participants of

the FAIM project in determining their eligibility for food stamps and in determining the benefit amount. ~~Exclusions that may be established include but are not limited to exclusions for one-time only cash payments for special employment-related needs as provided in 53-4-603 in determining the recipients' eligibility for food stamps and determining the benefit amount.~~"

Section 17. Section 53-2-1103, MCA, is amended to read:

"**53-2-1103. Definitions.** For the purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Economically disadvantaged person" has the same meaning as provided in section 4 of the Job Training Partnership Act (29 U.S.C. 1503).

(2) "Job Training Partnership Act" means the federal Job Training Partnership Act, Public Law 97-300 (29 U.S.C. 1501, et seq.), as amended.

(3) "Job training plan" means the plan for providing services and training in a service delivery area, as required in 53-2-1107.

(4) "Program" means the program created by 53-2-1104 to implement the provisions of Title II-A of the Job Training Partnership Act.

(5) "Program year" means the fiscal year beginning on July 1 of the year for which an appropriation is made for the program established under this part, as provided in section 161 of the Job Training Partnership Act (29 U.S.C. 1571).

(6) "Public assistance program" means the state program ~~of FAIM~~ that provides financial assistance, as defined in 53-2-902.

(7) "Service delivery area" means an area designated as provided in section 101 of the Job Training Partnership Act (29 U.S.C. 1511)."

Section 18. Section 53-4-201, MCA, is amended to read:

"**53-4-201. Definitions.** As used in part 6 and this part, the following definitions apply:

(1) "Assessment" means the process of evaluating a recipient's skills, education, job readiness, and barriers to employment. The term may include further in-depth examination to identify and access services and resources to assist the recipient in eliminating barriers to employment if barriers are identified

during the initial assessment.

~~(1)~~(2) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(2)~~(3) (a) "Dependent child", for public assistance purposes, means:

(i) a child under 18 years of age; or

(ii) a person under 19 years of age who is a student, as defined by the department by rule.

(b) The person described in subsection ~~(2)(a)(i) or (2)(a)(ii)~~ (3)(a)(i) or (3)(a)(ii) must be living with a specified caretaker relative, as defined by the department by rule.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(4) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

~~(5)~~(5) "Family" means a group of people who live with a dependent child, each of whom is related to the dependent child by blood, marriage, or adoption or by law, such as:

(a) a parent, including a natural or adoptive parent, a stepparent, or a person considered by law to be a parent in the case of a child conceived by artificial insemination; or

(b) a sibling.

~~(6)~~(6) "Federal poverty level" means the measure of indigence established annually by the U.S. office of management and budget.

(7) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(8) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

~~(7)~~(9) "Public assistance" or "assistance" means a type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

~~(8)~~(10) "Specified caretaker relative" means a person within a degree of kinship to the dependent child, as specified by department rule, who lives with the child and exercises care and control over the

child.

~~(9)~~(11) "State plan" means the policies and procedures governing the state of Montana's FAIM ~~financial assistance program~~ project and other programs funded by temporary assistance for needy families. It is prepared by the department and certified by the federal agency that provides funding for those programs.

~~(10)~~(12) "Temporary assistance for needy families" means the federal block grant ~~that funds FAIM financial assistance and other programs to strengthen and preserve families~~ established pursuant to ~~Title IV of the Social Security Act,~~ 42 U.S.C. 601, et seq.~~, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.~~"

Section 19. Section 53-4-202, MCA, is amended to read:

"**53-4-202. ~~FAIM financial~~ Financial assistance to be in effect in all counties.** (1) It is ~~mandatory and~~ required that the state plan and programs described in the state plan must be in effect in each county of the state.

(2) It is not required that the programs funded under ~~the~~ temporary assistance for needy families ~~block grant~~ be uniformly administered in each county of the state, provided that it is administered in accordance with all requirements of the state plan and federal law. The department may also administer demonstration programs pursuant to section 1115 of the Social Security Act, 42 U.S.C. 1315, or any other provision of that act that permits the states to administer experimental, pilot, or demonstration projects.

(3) An enrolled member of an Indian tribe participating in a program that is funded, at least in part, by ~~the~~ temporary assistance for needy families ~~block grant administered by the state of Montana~~ must be subject to the same rules, policies, and requirements as all other applicants for and recipients of benefits funded by ~~the~~ temporary assistance for needy families ~~block grant~~ unless an exception is expressly granted by federal law."

Section 20. Section 53-4-212, MCA, is amended to read:

"**53-4-212. Department to make rules.** (1) The department shall make rules and take action as necessary or desirable for the administration of ~~the FAIM financial~~ public assistance ~~program and other~~

programs ~~funded under the temporary assistance for needy families block grant~~.

(2) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, ~~and~~ methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives ~~participating in the community services program~~, including cooperation with assessments, the number of hours of ~~community service work~~ participation required for each ~~per~~ month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for ~~FAIM project~~ financial assistance ~~participants~~ recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) ~~maximum amounts of one-time only cash payments for special employment-related needs and the length of time that a family is required to remain off cash assistance after a payment is received~~ eligibility criteria and participation requirements for nonfinancial assistance recipients;

~~(h) exemptions from time limits in pathways and the community services program;~~

~~(i)~~(h) terms of ineligibility or sanctions against a specified caretaker ~~relative's~~ relative or other family ~~member's ineligibility for assistance because of failure~~ member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

~~(j)~~(i) requirements, if any, for participation in ~~and exemptions from participation in and procedures and policies of~~ the employment and training demonstration project;

~~(k)~~(j) eligibility for and terms and conditions of extended ~~child care and~~ medical assistance benefits;

~~(l)~~(k) reporting requirements;

~~(m)~~(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the ~~program~~ rules or requirements of a public assistance program;

~~(n)~~(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

~~(o)~~(n) individuals who must be included as members of an assistance unit;

~~(p)~~(o) categories of aliens who may receive assistance, if any;

~~(q)~~(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

~~(r)~~(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

~~(s)~~(r) special eligibility or participation requirements applicable to teenage parents, if any; and

~~(t)~~(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued."

Section 21. Section 53-4-214, MCA, is amended to read:

"**53-4-214. Distribution of copies of law and forms by department.** The department shall have printed and shall distribute copies of this part to all ~~county welfare departments~~ local offices of public assistance and shall prescribe the form of and print and supply to the ~~county welfare department~~ local offices of public assistance blanks of applications, reports, and other forms that may be necessary in relation to the ~~FAIM financial assistance and other~~ administration of public assistance programs ~~funded under the temporary assistance for needy families block grant~~."

Section 22. Section 53-4-231, MCA, is amended to read:

"**53-4-231. Eligibility.** (1) Subject to the provisions of subsections (2) through (5), assistance may be granted under this part to:

(a) a dependent child;

(b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents of a dependent child who:

(i) enters into a family investment agreement, as provided for in 53-4-606, if required by the department; and

(ii) cooperates in all assessments and screening required by the department;

(c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;

(d) persons under 18 years of age who live in the home with a dependent child, including but not limited to siblings related to the dependent child by blood, marriage, or adoption or by law;

(e) a needy pregnant woman with no other children who is receiving payments. Payments may begin no earlier than the third month prior to the month in which the child is expected to be born.

(2) Persons who are not citizens of the United States are eligible for assistance only as provided in sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as codified in Title 8 of the United States Code.

(3) A person who, after August 22, 1996, has been convicted of a felony offense, an element of which involves the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. 802, is ineligible for public assistance unless the person:

(a) has satisfied all conditions of probation or parole, if any, associated with the felony conviction; and

(b) completes a chemical dependency assessment by a chemical dependency counselor approved by the department and based on the assessment:

(i) there is the absence of any current drug dependency; or

(ii) the person satisfactorily completes a course of treatment and all requirements recommended by the chemical dependency counselor.

~~(3)~~(4) The following are not eligible for assistance:

(a) persons who are receiving supplemental security income payments under the Social Security Act;

(b) an adult or a dependent child who is or is expected to be absent from the home of the specified caretaker relative continuously for a period of time prescribed by the department by rule;

(c) a specified caretaker relative who fails to comply with requirements for reporting the absence of a dependent child from the specified caretaker relative's home as prescribed by the department by rule;

(d) families in which the specified caretaker relative fails or refuses to assign child and medical support rights to the department or to cooperate in establishing paternity or obtaining child or medical support as required by the department by rule;

(e) families in which the specified caretaker relative or other adult household member, as specified by the department by rule, fails or refuses to:

(i) cooperate in any required screening or assessment; or

(ii) enter into a family investment agreement required by the department under 53-4-606;

~~(e)~~(f) teenage parents who fail or refuse to attend secondary school or another training program as required by the department by rule;

~~(f)~~(g) teenage parents who are not living in an adult-supervised setting as defined by the department by rule;

~~(g)~~(h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608; and

~~(h)~~(i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~;~~. The ineligibility continues for a period of 10 years beginning on the date of conviction~~; and~~

~~(i) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)~~.

~~(4)~~(5) A family is not eligible for financial assistance if the family includes an adult who has received financial assistance in a program funded under ~~the~~ temporary assistance for needy families ~~block grant~~ in any state or states for 60 months or more, whether or not the months are consecutive, ~~except as provided by the department by rule in accordance with section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~ unless an exception is expressly granted by federal law.

~~(5)~~(6) This part may not be interpreted to entitle any individual or family to assistance under programs funded by ~~the~~ temporary assistance for needy families ~~block grant~~."

Section 23. Section 53-4-233, MCA, is amended to read:

"**53-4-233.** ~~**Investigation of**~~ Eligibility determination for **applications.** Whenever a ~~county department~~ local office of public assistance receives an application for assistance under this part, an ~~investigation~~ eligibility determination must be promptly made by the ~~county department~~ local office of public ~~welfare~~ assistance. Each applicant shall participate in any screening required by the department and must be informed of the applicant's right to a fair hearing and of the confidential nature of information secured. Upon completion of an ~~investigation~~ eligibility determination and any required screening, aid must be furnished promptly to all eligible persons. Each applicant must receive written notice of the decision concerning the applicant's request for assistance."

Section 24. Section 53-4-241, MCA, is amended to read:

"**53-4-241. Amount of assistance determined by department rules.** The amount of ~~FAIM~~ financial assistance or nonfinancial assistance granted in any case must be determined according to the rules and standards of assistance established by the department."

Section 25. Section 53-4-246, MCA, is amended to read:

"**53-4-246. (Temporary) County share of participation.** Except for recipients who are enrolled members of an Indian tribe, for each recipient of cash assistance in the FAIM project, the county where the recipient resides shall reimburse the department 22.5% of the nonfederal share of the approved temporary assistance for needy families grant for the recipient. However, a county is not required to reimburse the department more for temporary assistance for needy families grants for 1 state fiscal year than the dollar amount that the county paid as its share of cash assistance and emergency assistance programs in 1996. For purposes of determining the nonfederal share, the federal share is considered to be equal to the federal medical assistance percentage paid to the states for medicaid benefits under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. (Terminates June 30, 2001--sec. 6, Ch. 341, L. 1999.)

53-4-246. (Effective July 1, 2001) County share of participation. Each county where the recipient of ~~FAIM~~ financial assistance resides shall reimburse the department in the amount equal to the percentage

of the approved temporary assistance for needy families grants not paid with federal temporary assistance for needy families funds."

Section 26. Section 53-4-602, MCA, is amended to read:

"**53-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cash assistance" means monetary payments to a recipient of ~~FAIM~~ financial assistance to meet basic needs, such as shelter, utilities, clothing, and personal needs.

(2) "Child-care assistance" means payments to or on behalf of the specified caretaker relative of a dependent child to defray the cost of having a third party care for the child.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "FAIM project" means the families achieving independence in Montana project, including a ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered under the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

(5) "Section 1931 medicaid benefits" means medical assistance authorized by 42 U.S.C. 1396u-1 for families eligible for the Montana medicaid program, as established in Title 53, chapter 6, based on the department's income limitations, as increased each year by that year's increase in the Consumer Price Index for Urban Wage Earners, compiled by the U.S. department of labor, bureau of labor statistics, and other standards approved by the federal government for 1996 for the federal aid to families with dependent children program, as that program was established under Title IV of the federal Social Security Act (42 U.S.C. 601, et seq.)."

Section 27. Section 53-4-606, MCA, is amended to read:

"**53-4-606. Requirements for eligibility -- family investment agreement.** (1) Eligibility for ~~FAIM~~ financial assistance under the FAIM project with regard to income, resources, and all other factors of eligibility must be determined in accordance with the waivers granted by the U.S. secretary of health and human services under section 1115 of the Social Security Act, 42 U.S.C. 1315.

(2) (a) As a condition of eligibility for financial assistance ~~under pathways and the community services program~~, all specified caretaker relatives and other family members, as specified by the department by rule, shall enter into a family investment agreement with the department and shall comply with the terms of that agreement. ~~Entering into an agreement is not a condition of eligibility for the job supplement program.~~

(b) The family investment agreement must set forth the mutual obligations of the participant and the department to help the family achieve the goal of self-sufficiency. The agreement may contain provisions:

(i) regarding actions to be taken by the specified caretaker relative and by the department to secure child support;

(ii) requiring that the immunization and health-screening requirements of the early and periodic screening, diagnosis, and treatment program be met for all children in the family; ~~and~~

(iii) requiring the participant to cooperate in any assessments necessary to identify barriers to self-sufficiency and listing specific actions to be taken in order to eliminate any identified barriers; and

~~(iii)~~(iv) specifying other services and activities appropriate for the participant or family.

(c) ~~An individual who is required to enter into a family investment agreement and who~~ Families in which the specified caretaker relative or other adult household member, as specified by rule, fails or refuses to enter into a family investment agreement without good cause ~~to do so or fails without good cause to comply with the individual's obligations under the agreement is~~ are ineligible~~, as provided in 53-4-608,~~ for ~~FAIM~~ financial assistance.

(d) An individual who is required to enter into a family investment agreement and who refuses or fails, without good cause, to comply with the terms of the family investment agreement must be sanctioned in accordance with the rules and policies of the department.

~~(3) As a condition of eligibility for the community service program, a specified caretaker relative shall perform community service work as required by the department.~~"

Section 28. Section 53-4-611, MCA, is amended to read:

"**53-4-611. Child-care assistance.** ~~(1) In the job supplement program component of the FAIM project, the~~ The department may provide child-care assistance to all ~~single-parent~~ families receiving

financial assistance if child care is necessary to allow the parent to engage in paid employment and if funding is available. Child-care assistance may~~, at the department's discretion,~~ be provided to ~~two-parent~~ families receiving financial assistance if child care is necessary to allow either or both parents to engage in ~~paid employment~~ the activities required by a family investment agreement under 53-4-606 and if funding is available.

~~(2) In the pathways component of the FAIM project, the department may provide child-care assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child-care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~

~~(3) In the community services program component of the FAIM project, the department may provide child-care assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child-care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~"

Section 29. Section 53-4-612, MCA, is amended to read:

"**53-4-612. Extended ~~child care and~~ medical assistance benefits.** A family receiving ~~FAIM financial assistance under a component of the FAIM project~~ section 1931 medicaid benefits that loses eligibility for assistance because of increased income ~~from any source~~ to the assistance unit, as that term is defined in the rules of the department, may receive extended medical assistance benefits if funding is available, provided that the family's income does not exceed a percentage of the federal poverty level specified by the department by rule~~, and may receive child-care assistance pursuant to 53-4-611 if funding is available~~."

Section 30. Section 53-4-613, MCA, is amended to read:

"**53-4-613. Employment and training program.** In cases in which the department determines that

participation in the employment and training program would be appropriate for a ~~participant in pathways~~ recipient of financial assistance, the ~~participant~~ recipient may be required to participate in employment and training as one of the conditions of the ~~participant's~~ family investment agreement required under 53-4-606. The department may count education activities as an allowable work activity in a family investment agreement for up to 60 months in a FAIM project cash assistance program consistent with federal law."

Section 31. Section 53-4-702, MCA, is amended to read:

"**53-4-702. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(2) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash payments, services, and noncash assistance.~~

~~(3)~~(2) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

(3) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(4) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(5) "Temporary assistance for needy families" means the block grant program established pursuant to 42 U.S.C. 601, et seq."

Section 32. Section 53-4-704, MCA, is amended to read:

"**53-4-704. Placement of ~~FAIM~~ financial assistance recipients or food stamp program participants for purpose of training.** (1) The department or a person designated by the department may place an individual receiving financial assistance or participating in the ~~FAIM project~~ food stamp program into a

position of employment with a public or private entity for the purpose of training the individual in the knowledge and skills necessary for the individual to become successfully employed.

(2) The department may, pursuant to subsection (1), place an individual ~~participating in the FAIM project~~ into a position at a worksite only with the permission and assistance of the public or private entity at the worksite under a written training agreement between the department and the entity.

(3) The placement of an individual into a position at a public or private worksite pursuant to subsection (1) is only for the purpose of training the individual in employment knowledge and skills and is not for the purpose of providing paid employment for the individual. The placement may not supplant an existing employment position or another individual already employed at the worksite. Placement of the individual at the public or private worksite pursuant to subsection (1) should last no longer than is necessary to achieve the employment training purposes of the ~~FAIM project~~ program.

(4) The private or public entity where an individual is placed pursuant to subsection (1) may choose whether or not to later employ the individual after the conclusion of the individual's training."

Section 33. Section 53-4-705, MCA, is amended to read:

"**53-4-705. Services and activities.** Under the program provided for in 53-4-703, the department shall make available a broad range of services and activities to assist recipients of ~~FAIM~~ financial assistance as specified by the department by rule."

Section 34. Section 53-4-706, MCA, is amended to read:

"**53-4-706. Participation requirements.** (1) Except as otherwise provided in this section, the department may require individuals to participate in the employment and training program as a condition of their eligibility for ~~FAIM~~ financial assistance.

(2) To the extent that the program is available and that state resources permit, the department shall require recipients of ~~FAIM~~ financial assistance ~~who are participating in the pathways component of the FAIM project~~ to participate in the program if the department determines that it is an appropriate activity for the recipient and includes participation as a condition of the recipient's family investment agreement as provided for in 53-4-606."

Section 35. Section 53-4-717, MCA, is amended to read:

"**53-4-717. Sanctions.** If an individual receiving ~~FAIM~~ financial assistance ~~under the FAIM project~~ is required to participate in the employment and training program as a condition of the individual's family investment agreement, as provided for in 53-4-606, and fails without good cause to participate, the individual must be sanctioned in accordance with rules established by the department. Except as required by federal law, a sanction may not include any restriction or termination of food stamps or medicaid coverage, and child care benefits may only be continued for employment-related activities required by the family investment agreement that the ~~FAIM~~ participant has signed that are to be performed during the sanction period. The department may establish rules to ensure that individuals who participate in good faith are sanctioned properly and avail themselves of additional case management services to ensure compliance with the family investment agreement."

Section 36. Section 53-6-101, MCA, is amended to read:

"**53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended. The department of public health and human services shall administer the Montana medicaid program.

(2) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department; and

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2).

(3) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 2;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(o) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with

50-5-201; and

(p) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) Services for persons qualifying for medicaid under the medically needy category of assistance as described in 53-6-131 may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (2) and (3) to persons qualifying for medicaid under the medically needy category of assistance.

(5) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to ~~the~~ a program ~~of FAIM~~ providing financial assistance, as defined in ~~53-4-702~~ 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsections (2)(a) through (2)(l) but may include those optional services listed in subsections (3)(a) through (3)(p) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~ and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(6) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(7) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(8) The services provided under this part may be only those that are medically necessary and that

are the most efficient and cost-effective.

(9) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(10) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(11) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program.

(12) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted under this chapter.

(13) Medicaid payment for personal-care facilities may not be made unless the department certifies to the director of the governor's office of budget and program planning that payment to this type of provider would, in the aggregate, be a cost-effective alternative to services otherwise provided."

Section 37. Section 53-6-113, MCA, is amended to read:

"**53-6-113. Department to adopt rules.** (1) The department of public health and human services shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and ~~as~~ that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules ~~as~~ that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the reimbursements established by the department for services provided under this part.

(6) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed-care systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) The department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving ~~benefits from FAIM financial assistance, as defined in 53-4-702, as participants of the FAIM project~~ section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature ~~for~~

~~the FAIM project~~."

Section 38. Section 53-6-131, MCA, is amended to read:

"**53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits ~~or receive from FAIM financial assistance, as defined in 53-4-702, benefits under Title IV of the federal Social Security Act, 42 U.S.C. 601, et seq~~.

(b) The person would be eligible for assistance under ~~a~~ the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under ~~one of~~ the ~~programs~~ program in subsection (1)(a).

~~(d) The person is under 19 years of age and meets the conditions of eligibility in the state plan, as defined in 53-4-201, other than with respect to age and school attendance.~~

~~(e)~~(d) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

~~(f)~~(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through ~~(1)(e)~~ (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy

income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

(g) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving ~~FAIM financial assistance~~ section 1931 medicaid benefits, as defined in ~~53-4-702~~ 53-4-602, as the specified caretaker relative of a dependent child under the ~~FAIM project and to all adult recipients of medical assistance only who are covered under a group related to the program of FAIM financial assistance~~ section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social

Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services. The standards for eligibility for mental health services may provide for eligibility for households not eligible for medicaid with family income that does not exceed 200% of the federal poverty threshold or that does not exceed a lesser amount determined in the discretion of the department. The department may by rule specify under what circumstances deductions for medical expenses should be used to reduce countable family income in determining eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged recipients for services. The fees, premiums, or copayments may vary according to family income."

Section 39. Section 53-6-132, MCA, is amended to read:

"**53-6-132. Application for assistance -- exception.** (1) ~~Except as provided in~~ Subject to subsection (2), application for assistance under this part ~~must~~ may be made ~~to the~~ in any local office of ~~the county department in the county in which the person is residing~~ public assistance. The application must be presented in the manner and on the form prescribed by the department of public health and human services. All individuals wishing to apply must have the opportunity to do so.

(2) Notwithstanding the provisions of subsection (1), the department may designate an entity other than the ~~county department~~ local office of public assistance to determine eligibility for medicaid managed care services."

Section 40. Section 53-6-134, MCA, is amended to read:

"**53-6-134. Extension of eligibility for medical assistance to persons terminated from ~~FAIM financial assistance~~ section 1931 medicaid program.** (1) In providing for the extension of eligibility for medical assistance under subsection (2), the department may provide for health insurance or other health coverage in accordance with subsections 1925(a)(4)(B) and 1925(b)(4)(C) of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6(a)(4)(B) and 42 U.S.C. 1396r-6(b)(4)(C), and may exercise the other options contained in section 1925 of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6, regarding the provision of medical assistance.

(2) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may provide extended eligibility for medical assistance for a period of time established by the department by rule for persons receiving ~~FAIM financial assistance, as defined in 53-4-702, under the job supplement program, pathways, or community services program components of the FAIM project described in 53-4-603~~ section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased earned or unearned income ~~from any source or because of exhausting time-limited earned income disregards~~ to the assistance unit, as that term is defined in the rules of the department, provided that the family's income does not exceed a percentage of the federal poverty level established by the department by rule. The department, in exercising its discretion to establish income standards and duration of extended medical assistance by rule, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 41. Section 53-24-106, MCA, is amended to read:

"**53-24-106. Criminal laws limitation.** (1) ~~No~~ A county, municipality, or other political subdivision may not adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of

the offense giving rise to a criminal or civil penalty or sanction.

(2) ~~Nothing in this~~ This section ~~affects~~ does not affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, a boat, machinery, or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(3) This section does not prevent the department from imposing a sanction on or denying eligibility to applicants for or recipients of public assistance who fail or refuse to comply with all eligibility criteria and program requirements."

Section 42. Coordination instruction. If House Bill No. 101 is not passed and approved, then all references in [this act] to local offices of public assistance are changed to references to county welfare offices.

Section 43. Repealer. Sections 53-4-247, 53-4-603, 53-4-607, 53-4-608, and 53-4-701, MCA, are repealed.

Section 44. Effective date. [This act] is effective July 1, 2001.

Section 45. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to payments made after January 1, 2001, for mental health services provided to children with serious emotional disturbances for whom mental health services are not provided by any other public mental health services program and whose family income is at or below 150% of the federal poverty level.

- END -

OFFICE OF THE GOVERNOR

STATE OF MONTANA

JUDY MARTZ
GOVERNOR

STATE CAPITOL
PO BOX 200801
HELENA, MONTANA 59620-0801

April 20, 2001

The Honorable Tom Beck
President of the Senate
State Capitol
Helena, MT 59620

The Honorable Dan McGee
Speaker of the House
State Capitol
Helena, MT 59620

Dear President Beck and Speaker McGee:

In accordance with the powers vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments Senate Bill 77, "AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE"; etc., for the following reasons.

With the exception of one specific provision, I have no concerns with the objectives or contents of SB 77, which generally revises our public assistance laws. I do, however, disagree with that discrete provision in Section 22 that extends, under certain conditions, public assistance eligibility to individuals who have been convicted of a felony involving controlled substances, as that term is defined by federal law. I recommend that specific provision be stricken from SB 77 and that the current prohibition against such an extension of eligibility remain in place. I have attached my amendment to that effect.

The sponsor of SB 77, Senator Hargrove, has been advised of my amendatory recommendations.

Sincerely,

Judy Martz

JUDY MARTZ
Governor

c: Legislative Services Division
Office of Budget Program and Planning
Department of Public Health and Human Services

TELEPHONE: (406) 444-3111 FAX: (406) 444-4151

SB 77

GOVERNOR'S AMENDMENTS TO SENATE BILL NO. 77
(Reference Bill -- 2nd House/2nd Reading [Tan])

Drafted by the Office of the Governor

April 20, 2001

1. Page 27, line 16.
Strike: Subsection (3) in its entirety
Renumber: subsequent subsections

2. Page 28, line 15
Following: "608;"
Strike: "and"

2. Page 28, line 18.
Following: "conviction"
Strike: "~~and~~"
Insert: "; and"

3. Page 28, line 21.
Following: "~~802(6)~~."
Insert: " (j) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)."

AN ACT GENERALLY REVISING THE LAWS GOVERNING PUBLIC ASSISTANCE; DEFINING FINANCIAL ASSISTANCE AND NONFINANCIAL ASSISTANCE TO COMPORT WITH FEDERAL LAW; REMOVING AUTHORITY FOR ONE-TIME-ONLY INCOME EXCLUSIONS FOR SPECIAL EMPLOYMENT-RELATED NEEDS; AUTHORIZING THE ADOPTION OF RULES GOVERNING THE DURATION OF BENEFITS AND ELIGIBILITY FOR NONFINANCIAL ASSISTANCE; CLARIFYING SANCTIONS FOR FAILURE OR REFUSAL TO COMPLY WITH FAMILY INVESTMENT AGREEMENTS; REMOVING REFERENCES TO PATHWAYS AND THE COMMUNITY SERVICES PROGRAM; REMOVING THE DESIGNATED COMPONENTS OF THE FAIM PROGRAM; AMENDING SECTIONS 23-1-303, 39-7-303, 39-71-118, 39-71-123, 40-4-215, 40-5-242, 40-5-248, 53-2-201, 53-2-211, 53-2-606, 53-2-610, 53-2-613, 53-2-901, 53-2-902, 53-2-903, 53-2-904, 53-2-1103, 53-4-201, 53-4-202, 53-4-212, 53-4-214, 53-4-231, 53-4-233, 53-4-241, 53-4-246, 53-4-602, 53-4-606, 53-4-611, 53-4-612, 53-4-613, 53-4-702, 53-4-704, 53-4-705, 53-4-706, 53-4-717, 53-6-101, 53-6-113, 53-6-131, 53-6-132, 53-6-134, AND 53-24-106, MCA; REPEALING SECTIONS 53-4-247, 53-4-603, 53-4-607, 53-4-608, AND 53-4-701, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-1-303, MCA, is amended to read:

"**23-1-303. Powers and duties of the division.** The division, in cooperation with the department, may:

(1) hire a corps coordinator;

(2) coordinate with state agencies to place eligible participants in work experience projects, including those recipients of ~~FAIM~~ financial assistance, as defined in ~~53-2-902~~ 53-4-201, utilizing grant diversion funding and to place youth who are under state supervision utilizing payments from the department of public health and human services;

(3) develop and approve work experience projects that meet the requirements of this part;

(4) ensure that work experience projects involve labor-intensive improvements to public lands or facilities that will result in a public value and have a potential to yield revenue;

(5) execute contracts or cooperative agreements containing the terms and conditions necessary and desirable for the employment of crewleaders and corpsmembers in approved work experience projects with federal, state, or local agencies, persons, firms, partnerships, associations, or corporations;

(6) execute contracts or cooperative agreements with federal, state, or local agencies, persons, partnerships, associations, or corporations for the purpose of administering the requirements of this part;

(7) develop procedures for awarding incentive vouchers;

(8) authorize use of the corps for emergency projects, including but not limited to natural disasters, fire prevention and suppression, and rescue of lost or injured persons, and provide adequate training to corpsmembers prior to participation in an emergency project;

(9) apply for and accept grants or contributions of services, funds, or lands from any public or private donors, including the acceptance of federal funds appropriated by the legislature;

(10) purchase, rent, acquire, or obtain personal property, supplies, instruments, tools, or equipment necessary to complete work experience projects; and

(11) adopt rules and guidelines necessary to implement the provisions of this part and to effectively administer the program."

Section 2. Section 39-7-303, MCA, is amended to read:

"**39-7-303. Definitions.** As used in this part, the following definitions apply:

(1) "Adult" means a person who is 18 years of age or older.

(2) "Commissioner" means the commissioner of labor and industry as provided in 2-15-1701.

(3) "Displaced homemaker" means an adult who:

(a) has worked as an adult primarily without remuneration to care for the home and family and for that reason has diminished marketable skills and who has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

(b) (i) is a parent whose youngest dependent child will become ineligible to receive financial assistance ~~under the FAIM financial assistance~~, as defined in ~~53-2-902~~ 53-4-201, pursuant to Title 53, chapter 4, part 2, within 2 years of the parent's application for displaced homemaker assistance;

(ii) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate; or

(iii) meets the qualifications described in subsection (3)(a) or (3)(b) and is a criminal offender."

Section 3. Section 39-71-118, MCA, is amended to read:

"**39-71-118. Employee, worker, volunteer, and volunteer firefighter defined.** (1) The term "employee" or "worker" means:

(a) each person in this state, including a contractor other than an independent contractor, who is in the service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied, oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic employment is excluded.

(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program;

(c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training under a state or federal vocational training program, whether or not under an appointment or contract of hire with an employer, as defined in this chapter, and, except as provided in subsection (9), whether or not receiving payment from a third party. However, this subsection does not apply to students enrolled in vocational training programs, as outlined in this subsection, while they are on the premises of a public school or community college.

(d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

(e) a person, other than a juvenile as defined in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in this chapter, and whether

or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

(i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and

(ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

(g) a person who is an enrolled member of a volunteer fire department, as described in 7-33-4109, or a person who provides ambulance services under Title 7, chapter 34, part 1; and

(h) a person placed at a public or private entity's worksite pursuant to 53-4-704 is considered an employee for workers' compensation purposes only. The department of public health and human services shall provide workers' compensation coverage for ~~participants in the FAIM project~~ recipients of financial assistance, as defined in 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or private worksites through an endorsement to the department of public health and human services' workers' compensation policy naming the public or private worksite entities as named insureds under the policy. The endorsement may cover only the entity's ~~FAIM~~ public assistance participants and may only be for the duration of each participant's training ~~in the FAIM project~~ while receiving financial assistance or while participating in the food stamp program under a written agreement between the department of public health and human services and each public or private entity. The department of public health and human services may not provide workers' compensation coverage for individuals who are covered for workers' compensation purposes by another state or federal employment training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for work of a similar nature at the assigned worksite.

(2) The terms defined in subsection (1) do not include a person who is:

(a) participating in recreational activity and who at the time is relieved of and is not performing prescribed duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other emolument of employment;

(b) performing voluntary service at a recreational facility and who receives no compensation for those services other than meals, lodging, or the use of the recreational facilities;

(c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs services on behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

(d) serving as a foster parent, licensed as a foster care provider in accordance with 41-3-1141, and providing care without wage compensation to no more than six foster children in the provider's own residence. The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure and recreational activities, and providing for other needs and activities arising in the provision of in-home foster care.

(3) With the approval of the insurer, an employer may elect to include as an employee under the provisions of this chapter any volunteer as defined in subsection (2)(c).

(4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a fire company organized and funded by a county, a rural fire district, or a fire service area.

(b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an employer, including but not limited to training time, response time, and time spent at the employer's premises.

(5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or limited liability company business.

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner, sole proprietor, or member is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter

following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $900 a month and not more than 1 1/2 times the average weekly wage, as defined in this chapter.

(6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability company, the employer may elect to include as an employee within the provisions of this chapter any corporate officer or manager exempted under 39-71-401(2).

(b) In the event of an election, the employer shall serve upon the employer's insurer written notice naming the corporate officer or manager to be covered and stating the level of compensation coverage desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer or manager is not considered an employee within this chapter until notice has been given.

(c) A change in elected wages must be in writing and is effective at the start of the next quarter following notification.

(d) All weekly compensation benefits must be based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection. For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the electing employer may elect not less than $200 a week and not more than 1 1/2 times the average weekly wage, as defined in this chapter.

(7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the county commissioners or trustees for a fire service area may elect to include as an employee within the provisions of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage under this section may not receive disability benefits under Title 19, chapter 17.

(b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly wage divided by 40 hours, subject to a maximum of 1 1/2 times the average weekly wage.

(8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to be under the control and employment of the employer. This presumption may be rebutted as provided in 39-71-117(3).

(9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution who is participating in work-based learning activities and who is paid wages by the educational institution or business partner is the employee of the entity that pays the student's wages for all purposes under this chapter. A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject to the provisions of this chapter.

(10) For purposes of this section, an "employee or worker in this state" means:

(a) a resident of Montana who is employed by an employer and whose employment duties are primarily carried out or controlled within this state;

(b) a nonresident of Montana whose principal employment duties are conducted within this state on a regular basis for an employer;

(c) a nonresident employee of an employer from another state engaged in the construction industry, as defined in 39-71-116, within this state; or

(d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose employer elects coverage with an insurer that allows an election for an employer whose:

(i) nonresident employees are hired in Montana;

(ii) nonresident employees' wages are paid in Montana;

(iii) nonresident employees are supervised in Montana; and

(iv) business records are maintained in Montana.

(11) An insurer may require coverage for all nonresident employees of a Montana employer who do not meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection (10)(d)."

Section 4. Section 39-71-123, MCA, is amended to read:

"**39-71-123. Wages defined.** (1) "Wages" means all remuneration paid for services performed by

an employee for an employer, or income provided for in subsection (1)(d). Wages include the cash value of all remuneration paid in any medium other than cash. The term includes but is not limited to:

(a) commissions, bonuses, and remuneration at the regular hourly rate for overtime work, holidays, vacations, and periods of sickness ~~periods~~;

(b) backpay or any similar pay made for or in ~~regards~~ regard to previous service by the employee for the employer, other than retirement or pension benefits from a qualified plan;

(c) tips or other gratuities received by the employee, to the extent that tips or gratuities are documented by the employee to the employer for tax purposes;

(d) income or payment in the form of a draw, wage, net profit, or substitute for money received or taken by a sole proprietor or partner, regardless of whether the sole proprietor or partner has performed work or provided services for that remuneration;

(e) board, lodging, rent, or housing if it constitutes a part of the employee's remuneration and is based on its actual value; and

(f) payments made to an employee on any basis other than time worked, including but not limited to piecework, an incentive plan, or profit-sharing arrangement.

(2) The term "wages" does not include any of the following:

(a) employee expense reimbursements or allowances for meals, lodging, travel, subsistence, and other expenses, as set forth in department rules;

(b) the amount of the payment made by the employer for employees, if the payment was made for:

(i) retirement or pension pursuant to a qualified plan as defined under the provisions of the Internal Revenue Code;

(ii) sickness or accident disability under a workers' compensation policy;

(iii) medical or hospitalization expenses in connection with sickness or accident disability, including health insurance for the employee or the employee's immediate family;

(iv) death, including life insurance for the employee or the employee's immediate family;

(c) vacation or sick leave benefits accrued but not paid;

(d) special rewards for individual invention or discovery; or

(e) monetary and other benefits paid to a person as part of public assistance ~~provided through~~

~~the FAIM project~~, as defined in ~~53-4-702~~ 53-4-201.

(3) (a) Except as provided in subsection (3)(b), for compensation benefit purposes, the average actual earnings for the four pay periods immediately preceding the injury are the employee's wages, except that if the term of employment for the same employer is less than four pay periods, the employee's wages are the hourly rate times the number of hours in a week for which the employee was hired to work.

(b) For good cause shown, if the use of the last four pay periods does not accurately reflect the claimant's employment history with the employer, the wage may be calculated by dividing the total earnings for an additional period of time, not to exceed 1 year prior to the date of injury, by the number of weeks in that period, including periods of idleness or seasonal fluctuations.

(4) (a) For the purpose of calculating compensation benefits for an employee working concurrent employments, the average actual wages must be calculated as provided in subsection (3). As used in this subsection, "concurrent employment" means employment in which the employee was actually employed at the time of the injury and would have continued to be employed without a break in the term of employment if not for the injury.

(b) The compensation benefits for a covered volunteer must be based on the average actual wages in the volunteer's regular employment, except self-employment as a sole proprietor or partner who elected not to be covered, from which the volunteer is disabled by the injury incurred.

(c) The compensation benefits for an employee working at two or more concurrent remunerated employments must be based on the aggregate of average actual wages of all employments, except for the wages earned by individuals while engaged in the employments outlined in 39-71-401(3)(a) who elected not to be covered, from which the employee is disabled by the injury incurred."

Section 5. Section 40-4-215, MCA, is amended to read:

"**40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests, or if the court finds that a parenting proceeding is contested, the court may order an investigation and report concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other professional considered appropriate by the court. The department of public health and human services may not be ordered to conduct the investigation or draft a report unless the person

requesting the investigation is a recipient of ~~cash assistance under the temporary assistance for needy families block grant, FAIM~~ financial assistance, as defined in 53-4-201, or a participant in the food stamp program, as defined in 53-2-902, ~~food stamps, or public assistance~~ and all reasonable options for payment of the investigation, if conducted by a person not employed by the department, are exhausted. The department may consult with any investigator and share information relevant to the child's best interests. The cost of the investigation and report must be paid according to the final order. The cost of the educational evaluation under subsection (2)(a) must be paid from the fees for filing petitions for contested amendment of a parenting plan, as provided in 25-1-201(9).

(2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation and preparation of the report, which may include one or more of the following:

(a) parenting education;

(b) mediation pursuant to 40-4-301;

(c) factfinding by the investigator; and

(d) psychological evaluation of the parties.

(3) In preparing a report concerning a child, the investigator may consult any person who has information about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older, the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the persons or entities authorized by law to grant or withhold access to the records. The child's consent must be obtained if the child ~~has reached the age of~~ is 16 years of age or older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4) are fulfilled, the investigator's report may be received in evidence at the hearing.

(4) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person the investigator has

consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included in the court record and may, without objection, be sealed."

Section 6. Section 40-5-242, MCA, is amended to read:

"**40-5-242. Notice of support lien -- civil liability upon failure to honor support lien or to comply with warrant for distraint.** (1) The department may, at any time after asserting a support lien, serve a notice of the lien on any person, firm, corporation, association, or political subdivision or department of the state in possession of any real or personal property that is due, owing, or belonging to an obligor. For this purpose, personal property includes the obligor's share of a decedent's estate, workers' compensation benefits, and any proceeds or potential proceeds from suits at law. Except as provided in subsections (1)(a) and (1)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial assistance program~~ for temporary assistance for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(2) Except as provided in subsection (3), a person or entity is liable to the department in an amount equal to 100% of the value of a support lien or warrant for distraint or the value of real or personal property subject to a support lien or distrained by a warrant for distraint, whichever is less, together with costs, interest, and reasonable attorney fees, if the person or entity:

(a) pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien, to or for the benefit of the obligor, after the person or entity receives actual notice of filing of the

support lien; or

(b) fails or refuses to surrender upon demand property of an obligor when presented with a warrant for distraint by a sheriff or levying officer under the provisions of 40-5-247.

(3) A person or entity is not liable to the department under this section when:

(a) a written release or waiver of the support lien or warrant for distraint issued by the department has been delivered to the person or entity;

(b) a determination has been made in an adjudicative proceeding, either administrative or judicial, that a support lien does not exist or that the lien has been satisfied; or

(c) the property subject to a support lien has been transferred to, paid over to, or repossessed by a person or entity holding:

(i) a prior perfected lien;

(ii) a mortgage, the proceeds of which were used by the obligor to purchase real property; or

(iii) a perfected purchase money security interest, as [defined by 30-9-107] described by 30-9-321. (Bracketed reference deleted July 1, 2001.)"

Section 7. Section 40-5-248, MCA, is amended to read:

"**40-5-248. Lien against real and personal property -- effect of lien -- interest -- warrant for distraint.** (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as [defined in 30-9-107] described in 30-9-321.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until 2 years after the child to whom the support lien is related attains the age of majority, whichever occurs first.

(5) The lien applies to all real and personal property owned by the obligor if it can be located in the state. The lien applies to all real and personal property that the obligor can afterward acquire. Except as provided in subsections (5)(a) and (5)(b), the department may not impose a lien under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

(a) The department may impose a lien under this section upon a self-sufficiency trust or upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department is required by federal law to recover or collect from the trust or its assets as a condition of receiving federal financial participation for the child support enforcement program or ~~the FAIM financial~~ for temporary assistance ~~program~~ for needy families, as defined in 53-4-201.

(b) To the extent otherwise permitted by this section, the department is not precluded from asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any transfer of the property to the trust is subject to the lien.

(6) The department shall keep a record of support liens asserted under this section in the registry of support orders established by 40-5-271.

(7) A support lien is perfected:

(a) as to real property, upon filing a notice of support lien with the clerk of the district court in the county or counties in which the real property is or may be located at the time of filing or at any time in the future;

(b) as to motor vehicles or other items for which a certificate of ownership is issued by the department of justice, upon filing a notice of support lien with the department of justice in accordance

with the provisions of Titles 23 and 61;

(c) as to all other personal property, upon filing a notice of support lien in the place required to perfect a security interest under [30-9-401] 30-9-321. The county clerk and recorder or the secretary of state, as appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of support lien were a financing statement within the meaning of the Uniform Commercial Code.

(8) A buyer, in the ordinary course of business, who buys an obligor's personal property for value and who buys in good faith and without knowledge of the support lien takes the property free of the support lien.

(9) (a) The department may charge interest on the support lien at the rate of 1% per month.

(b) Interest accrues at the close of the business day on the last day of each month and is calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end of the day, by the applicable rate of interest.

(c) A provision of this section may not be construed to require the department to maintain interest balance due accounts. The department may waive interest if waiver would facilitate the collection of the debt.

(d) Interest under this subsection (9) is in addition to and not in substitution for any other interest accrued or accruing under any other provision of law.

(10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the department shall take all necessary steps to release the support lien.

(b) Upon receiving partial payment of the support lien or if the department determines that a release or partial release of the lien will facilitate the collection of support arrearages, the department may release or partially release the support lien. The department may release the support lien if it determines that the lien is unenforceable.

(11) A support lien under this section is in addition to any other lien created by law.

(12) A support lien under this section may not be discharged in bankruptcy.

(13) Support liens provided for by this section may be enforced or collected through the warrant for distraint provided for by 40-5-247. (Bracketed references deleted July 1, 2001.)"

Section 8. Section 53-2-201, MCA, is amended to read:

"**53-2-201. Powers and duties of department.** (1) The department shall:

(a) administer and supervise public assistance, including the provision of food stamps, food commodities, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, energy assistance, weatherization, vocational rehabilitation, services for persons with severe disabilities, developmental disability services, medical care payments in behalf of recipients of public assistance, employment and training services for recipients of public assistance, and other programs as necessary to strengthen and preserve families;

(b) give consultant service to private institutions providing care for adults who are needy, indigent, or dependent or who have disabilities;

(c) cooperate with other state agencies and develop provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions, and vocational guidance and training of the blind;

(d) ~~provide services in respect to organization~~ organize and supervise ~~county departments~~ the local offices of public ~~welfare and county boards of public welfare~~ assistance in ~~the administration of public assistance functions and for efficiency and economy~~ an efficient and economical manner;

(e) assist and cooperate with other state and federal departments, bureaus, agencies, and institutions, when requested, by performing services in conformity with public assistance purposes;

(f) administer all state and federal funds allocated to the department for public assistance and do all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance purposes;

(g) make rules governing payment for services and supplies provided to recipients of public assistance; and

(h) adopt rules regarding assignment of monetary and medical support upon application for ~~FAIM~~ financial assistance, as defined in 53-2-902, and related medical assistance.

(2) The department may:

(a) purchase, exchange, condemn, or receive by gift either real or personal property that is necessary to carry out its public assistance functions. Title to property obtained under this subsection must be taken in the name of the state of Montana for the use and benefit of the department.

(b) contract with the federal government to carry out its public assistance functions. The

department may do all things necessary in order to avail itself of federal aid and assistance.

(c) make rules, consistent with state and federal law, establishing the amount, scope, and duration of services to be provided to recipients of public assistance."

Section 9. Section 53-2-211, MCA, is amended to read:

"**53-2-211. Department to share eligibility data.** (1) The department shall make available to the unemployment compensation program of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, and food stamps. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation program of the state and for no other purpose.

(2) The department shall make available to the unemployment compensation and ~~the~~ workers' compensation programs of the department of labor and industry all information contained in its files and records pertaining to eligibility of persons for low-income energy assistance~~,~~ and weatherization. The information made available must include information on the amount and source of an applicant's income. The information received from the department must be used by the department of labor and industry for the purpose of determining fraud, abuse, or eligibility for benefits under the unemployment compensation and workers' compensation programs of the state and for no other purpose.

(3) (a) Subject to federal restrictions, the department may request information from the department of labor and industry pertaining to unemployment, workers' compensation, and occupational disease benefits. If the department of labor and industry discovers evidence relating to fraud or abuse for unemployment, workers' compensation, or occupational benefits, the department of labor and industry may request information from the department of revenue pertaining to income as provided in 15-30-303(8)(c).

(b) The information must be used by the department for the purpose of determining fraud, abuse, or eligibility for benefits.

(4) The department may, to the extent permitted by federal law, make available to an agency of

the state or to any other organization information contained in its files and records pertaining to the eligibility of persons for medicaid, ~~FAIM~~ financial assistance and nonfinancial assistance, as defined in 53-2-902, food stamps, low-income energy assistance, weatherization, or other public assistance. ~~The information may be disclosed only for purposes directly connected with the administration of a program or purpose of the agency and may not be used by the agency for any other purpose.~~"

Section 10. Section 53-2-606, MCA, is amended to read:

"**53-2-606. Right of appeal.** (1) If an application for assistance for food stamps, ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made with which the applicant or recipient is not satisfied, the applicant or recipient may appeal to the board of public assistance for a fair hearing by addressing a request for a hearing to the department of public health and human services. The board of public assistance shall, upon receipt of a request for a hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

(2) The department may upon its own motion review any decision of a county welfare board and may consider any application upon which a decision has not been made by the county board within a reasonable time from the filing of the decision. The department may have an additional ~~investigation~~ eligibility determination made and shall make a decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of this title.

(3) If the department reviews a county decision on its own motion, applicants or recipients affected by the decisions of the department shall upon request be given reasonable notice and an opportunity for a fair hearing by the board of public assistance.

~~(4) All decisions of the department or the board of public assistance are final and are binding and must be complied with by the county department.~~"

Section 11. Section 53-2-610, MCA, is amended to read:

"**53-2-610. County to reimburse department.** (1) On or before the 20th of each month, the department shall present a claim for reimbursement to each county department for its proportionate share of public assistance granted in the county to recipients during the month and for vendor medical payments

made on behalf of recipients in the previous month. The county department shall make the reimbursement to the department within 20 days after the claim is presented.

(2) The counties may not be required to reimburse the department for:

(a) any portion of public assistance paid to a household eligible for ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, if the household includes an enrolled Indian who is the caretaker relative of a needy dependent child; or

(b) any payment on behalf of any person in a state-operated medical institution.

(3) (a) From the original date of entrustment or the original date of state residency, whichever is earlier, recipients of public assistance who become wards or patients in a licensed nursing home or hospital, foster home, or private charitable institution are the financial responsibility of the appropriate county as provided in subsections (3)(b) through (3)(d).

(b) The county in which commitment of an adult is initiated is considered the county of financial responsibility except when a court decree declares the residency to be otherwise. When an adult is transferred from a facility or institution to one of the facilities listed in subsection (3)(a), the county that initiated the original commitment is considered the county of financial responsibility except in the case of an adult transfer from an out-of-state institution, in which case the county in which the facility is located is considered the county of financial responsibility.

(c) In all cases in which a minor patient or ward is involved, the county of financial responsibility is the county in which the parent or guardian resides. If the custody of a minor is entrusted to a state agency, the agency may make a reasonable declaration of the county residency of its ward using applicable guidelines enumerated in this section.

(d) If a person is or becomes an adult while in an institution, the person may determine the county of residence when the person is restored to competency and released. The person becomes the financial responsibility of the new county of residence."

Section 12. Section 53-2-613, MCA, is amended to read:

"**53-2-613. Application for assistance -- assignment of support rights.** (1) Applications for public assistance, including but not limited to ~~FAIM~~ financial assistance or nonfinancial assistance, as defined in 53-2-902, and medical assistance, ~~must~~ may be made ~~to the county department of public welfare in~~

~~the county~~ in ~~which the person is residing~~ any local office of public assistance. The application must be submitted, in the manner and form prescribed by the department, and must contain information required by the department.

(2) A person who signs an application for ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance assigns to the state, to the department, and to the county ~~welfare department~~, if county funds were used to pay for services, all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or in behalf of any other family member for whom application is made. A person who signs an application for public assistance other than ~~FAIM~~ financial assistance, as defined in 53-2-902, or for related medical assistance may, in accordance with rules adopted by the department, be required to assign to the state, to the department, and to the county ~~welfare department~~ all rights that the applicant may have to monetary and medical support from any other person in the applicant's own behalf or on behalf of any other family member for whom application is made.

(3) The assignment:

(a) is effective for both current and accrued support, including unpaid support that accrued before the applicant received public assistance, and medical obligations;

(b) takes effect upon a determination that the applicant is eligible for public assistance; and

(c) remains in effect with respect to the amount of any unpaid support and medical obligation accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

(4) If a person who is the legal custodian and child support obligee under a support order relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the child support obligation is transferred by operation of law to the caretaker relative and may be assigned as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer has physical custody of the child, except for any unpaid support still owing under the assignment at that time.

(5) Whenever a child support or spousal support obligation is assigned to the department pursuant to this section, the following provisions apply:

(a) If the support obligation is based upon a judgment or decree or an order of a court of

competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to reimburse the cumulative total of public assistance money expended.

(b) A recipient or former recipient of public assistance may not commence or maintain an action to recover or enforce a delinquent support obligation or make any agreements with any other person or agency concerning the support obligation, except as provided in 40-5-202.

(c) If a notice of assigned interest is filed with the district court, the clerk of the court may not pay over or release for the benefit of any recipient or former recipient of public assistance any amounts received pursuant to a judgment or decree or an order of the court until the department's child support enforcement division has filed a written notice that:

(i) the assignment of current support amounts has been terminated; and

(ii) all assigned support delinquencies, if any, are satisfied or released.

(d) A recipient or former recipient of public assistance may not take action to modify or make any agreement to modify, settle, or release any past, present, or future support obligation unless the department's child support enforcement division is given written notice under the provisions of 40-5-202. Any modifications or agreements entered into without the participation of the department are void with respect to the state, the department, and the county welfare department.

(e) A support obligation assigned under this section may not be terminated, invalidated, waived, set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former recipient of public assistance to take any action or to cease any action required under a decree, judgment, support order, custody order, visitation order, restraining order, or other similar order."

Section 13. Section 53-2-901, MCA, is amended to read:

"**53-2-901. Administration of food stamp program -- rulemaking authority.** (1) The department is authorized to administer the food stamp program in compliance with all federal laws and requirements.

(2) The department shall adopt rules that are necessary and desirable for the administration of the food stamp program.

(3) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility for assistance, including income and resource limitations, income and resource exclusions, and transfers of resources;

(b) amounts of assistance and methods for determining benefit amount;

(c) periodic redetermination of eligibility;

(d) reporting requirements;

(e) work registration, employment, and training requirements and exemptions from those requirements;

(f) procedures and policies of the employment and training program;

(g) disqualification because of intentional program violations, for voluntarily quitting a job without good cause, or for any other violation of program rules; and

(h) penalties applicable to recipients of ~~FAIM~~ financial assistance who have been sanctioned because of failure to meet any requirement of that program.

(4) The department may adopt rules that include but are not limited to rules concerning:

(a) requirements for recipients to assign the right of support;

(b) requirements for recipients to cooperate with the state agency administering the child support enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

(c) disqualification for failure to perform actions required by other means-tested programs, for failure to cooperate with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C. 2015."

Section 14. Section 53-2-902, MCA, is amended to read:

"**53-2-902. Definitions.** As used in this part, the following definitions apply:

(1) "Department" means the department of public health and human services provided in Title 2, chapter 15, part 22.

(2) "Employment and training demonstration project" means the employment and training program for recipients of ~~FAIM~~ financial assistance who are participating in the FAIM project.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(3) "FAIM project" means the families achieving independence in Montana project, including the ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

(4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(5) "Food stamp program" means the provision of food stamp benefits that can be used to purchase food to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.

(6) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(7) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C. 601, et seq."

Section 15. Section 53-2-903, MCA, is amended to read:

"**53-2-903. Employment and training program.** The department shall establish and administer an employment and training program for food stamp recipients that is in compliance with federal requirements. For purposes of the FAIM project, in accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may merge its food stamp program employment and training program with its ~~FAIM~~ financial assistance employment and training program or may modify the rules and requirements of the food stamp program employment and training program as necessary to make them consistent with those of the employment and training demonstration project."

Section 16. Section 53-2-904, MCA, is amended to read:

"**53-2-904. Income and resource exclusions -- FAIM participants.** In accordance with waivers of federal law that are granted by the food and consumer service of the U.S. department of agriculture, the department may by rule establish special income and resource exclusions to be applied to participants of

the FAIM project in determining their eligibility for food stamps and in determining the benefit amount. ~~Exclusions that may be established include but are not limited to exclusions for one-time only cash payments for special employment-related needs as provided in 53-4-603 in determining the recipients' eligibility for food stamps and determining the benefit amount.~~"

Section 17. Section 53-2-1103, MCA, is amended to read:

"**53-2-1103. Definitions.** For the purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Economically disadvantaged person" has the same meaning as provided in section 4 of the Job Training Partnership Act (29 U.S.C. 1503).

(2) "Job Training Partnership Act" means the federal Job Training Partnership Act, Public Law 97-300 (29 U.S.C. 1501, et seq.), as amended.

(3) "Job training plan" means the plan for providing services and training in a service delivery area, as required in 53-2-1107.

(4) "Program" means the program created by 53-2-1104 to implement the provisions of Title II-A of the Job Training Partnership Act.

(5) "Program year" means the fiscal year beginning on July 1 of the year for which an appropriation is made for the program established under this part, as provided in section 161 of the Job Training Partnership Act (29 U.S.C. 1571).

(6) "Public assistance program" means the state program ~~of FAIM~~ that provides financial assistance, as defined in 53-2-902.

(7) "Service delivery area" means an area designated as provided in section 101 of the Job Training Partnership Act (29 U.S.C. 1511)."

Section 18. Section 53-4-201, MCA, is amended to read:

"**53-4-201. Definitions.** As used in part 6 and this part, the following definitions apply:

(1) "Assessment" means the process of evaluating a recipient's skills, education, job readiness, and barriers to employment. The term may include further in-depth examination to identify and access services and resources to assist the recipient in eliminating barriers to employment if barriers are identified

during the initial assessment.

~~(1)~~(2) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(2)~~(3) (a) "Dependent child", for public assistance purposes, means:

(i) a child under 18 years of age; or

(ii) a person under 19 years of age who is a student, as defined by the department by rule.

(b) The person described in subsection ~~(2)(a)(i) or (2)(a)(ii)~~ (3)(a)(i) or (3)(a)(ii) must be living with a specified caretaker relative, as defined by the department by rule.

~~(3) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash, services, and noncash assistance.~~

~~(4)~~(4) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

~~(5)~~(5) "Family" means a group of people who live with a dependent child, each of whom is related to the dependent child by blood, marriage, or adoption or by law, such as:

(a) a parent, including a natural or adoptive parent, a stepparent, or a person considered by law to be a parent in the case of a child conceived by artificial insemination; or

(b) a sibling.

~~(6)~~(6) "Federal poverty level" means the measure of indigence established annually by the U.S. office of management and budget.

(7) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(8) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

~~(7)~~(9) "Public assistance" or "assistance" means a type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

~~(8)~~(10) "Specified caretaker relative" means a person within a degree of kinship to the dependent child, as specified by department rule, who lives with the child and exercises care and control over the

child.

~~(9)~~(11) "State plan" means the policies and procedures governing the state of Montana's FAIM ~~financial assistance program~~ project and other programs funded by temporary assistance for needy families. It is prepared by the department and certified by the federal agency that provides funding for those programs.

~~(10)~~(12) "Temporary assistance for needy families" means the federal block grant ~~that funds FAIM financial assistance and other programs to strengthen and preserve families~~ established pursuant to ~~Title IV of the Social Security Act,~~ 42 U.S.C. 601, et seq.~~, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.~~"

Section 19. Section 53-4-202, MCA, is amended to read:

"**53-4-202. ~~FAIM financial~~ Financial assistance to be in effect in all counties.** (1) It is ~~mandatory and~~ required that the state plan and programs described in the state plan must be in effect in each county of the state.

(2) It is not required that the programs funded under ~~the~~ temporary assistance for needy families ~~block grant~~ be uniformly administered in each county of the state, provided that it is administered in accordance with all requirements of the state plan and federal law. The department may also administer demonstration programs pursuant to section 1115 of the Social Security Act, 42 U.S.C. 1315, or any other provision of that act that permits the states to administer experimental, pilot, or demonstration projects.

(3) An enrolled member of an Indian tribe participating in a program that is funded, at least in part, by ~~the~~ temporary assistance for needy families ~~block grant administered by the state of Montana~~ must be subject to the same rules, policies, and requirements as all other applicants for and recipients of benefits funded by ~~the~~ temporary assistance for needy families ~~block grant~~ unless an exception is expressly granted by federal law."

Section 20. Section 53-4-212, MCA, is amended to read:

"**53-4-212. Department to make rules.** (1) The department shall make rules and take action as necessary or desirable for the administration of ~~the FAIM financial~~ public assistance ~~program and other~~

programs ~~funded under the temporary assistance for needy families block grant~~.

(2) The department shall adopt rules that may include but are not limited to rules concerning:

(a) eligibility requirements, including gross and net income limitations, resource limitations, and income and resource exclusions;

(b) amounts of assistance, ~~and~~ methods for computing benefit amounts, and the length of time for which benefits may be granted;

(c) the degree of kinship required for a person to qualify as a specified caretaker relative in order to be eligible for assistance;

(d) procedures and policies for employment and training programs, requirements for participation in employment and training programs, and exemptions, if any, from participation requirements;

(e) requirements for specified caretaker relatives ~~participating in the community services program~~, including cooperation with assessments, the number of hours of ~~community service work~~ participation required for each ~~per~~ month, specific activities required to address employment barriers, and other terms of performance;

(f) eligibility for and terms and conditions of child-care assistance for ~~FAIM project~~ financial assistance ~~participants~~ recipients, including maximum amounts of assistance payable and amounts of copayments required by specified caretaker relatives;

(g) ~~maximum amounts of one-time only cash payments for special employment-related needs and the length of time that a family is required to remain off cash assistance after a payment is received~~ eligibility criteria and participation requirements for nonfinancial assistance recipients;

~~(h) exemptions from time limits in pathways and the community services program;~~

~~(i)~~(h) terms of ineligibility or sanctions against a specified caretaker ~~relative's~~ relative or other family ~~member's ineligibility for assistance because of failure~~ member who fails to enter into a family investment agreement, as provided for in 53-4-606, or to comply with the individual's obligations under the agreement, including the length of the period of ineligibility, if any;

~~(j)~~(i) requirements, if any, for participation in ~~and exemptions from participation in and procedures and policies of~~ the employment and training demonstration project;

~~(k)~~(j) eligibility for and terms and conditions of extended ~~child care and~~ medical assistance benefits;

~~(l)~~(k) reporting requirements;

~~(m)~~(l) sanctions, disqualification, or other penalties for failure or refusal to comply with the ~~program~~ rules or requirements of a public assistance program;

~~(n)~~(m) exemptions from the 60-month limitation on assistance provided in 53-4-231 based on hardship or for families that include an individual who has been battered or subjected to extreme cruelty, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608, including but not limited to the duration of the exemption;

~~(o)~~(n) individuals who must be included as members of an assistance unit;

~~(p)~~(o) categories of aliens who may receive assistance, if any;

~~(q)~~(p) requirements relating to the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

~~(r)~~(q) requirements for eligibility and other terms and conditions of other programs to strengthen and preserve families;

~~(s)~~(r) special eligibility or participation requirements applicable to teenage parents, if any; and

~~(t)~~(s) conditions under which assistance may be continued when an adult or a dependent child is temporarily absent from the home and the length of time for which assistance may be continued."

Section 21. Section 53-4-214, MCA, is amended to read:

"**53-4-214. Distribution of copies of law and forms by department.** The department shall have printed and shall distribute copies of this part to all ~~county welfare departments~~ local offices of public assistance and shall prescribe the form of and print and supply to the ~~county welfare department~~ local offices of public assistance blanks of applications, reports, and other forms that may be necessary in relation to the ~~FAIM financial assistance and other~~ administration of public assistance programs ~~funded under the temporary assistance for needy families block grant~~."

Section 22. Section 53-4-231, MCA, is amended to read:

"**53-4-231. Eligibility.** (1) Subject to the provisions of subsections (2) through (5), assistance may be granted under this part to:

(a) a dependent child;

(b) a specified caretaker relative or relatives, including but not limited to the natural or adoptive parents of a dependent child who:

(i) enters into a family investment agreement, as provided for in 53-4-606, if required by the department; and

(ii) cooperates in all assessments and screening required by the department;

(c) the stepparent of a dependent child who lives with the child and the child's natural or adoptive parent;

(d) persons under 18 years of age who live in the home with a dependent child, including but not limited to siblings related to the dependent child by blood, marriage, or adoption or by law;

(e) a needy pregnant woman with no other children who is receiving payments. Payments may begin no earlier than the third month prior to the month in which the child is expected to be born.

(2) Persons who are not citizens of the United States are eligible for assistance only as provided in sections 401 through 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as codified in Title 8 of the United States Code.

~~(3)~~(3) The following are not eligible for assistance:

(a) persons who are receiving supplemental security income payments under the Social Security Act;

(b) an adult or a dependent child who is or is expected to be absent from the home of the specified caretaker relative continuously for a period of time prescribed by the department by rule;

(c) a specified caretaker relative who fails to comply with requirements for reporting the absence of a dependent child from the specified caretaker relative's home as prescribed by the department by rule;

(d) families in which the specified caretaker relative fails or refuses to assign child and medical support rights to the department or to cooperate in establishing paternity or obtaining child or medical support as required by the department by rule;

(e) families in which the specified caretaker relative or other adult household member, as specified by the department by rule, fails or refuses to:

(i) cooperate in any required screening or assessment; or

(ii) enter into a family investment agreement required by the department under 53-4-606;

~~(e)~~(f) teenage parents who fail or refuse to attend secondary school or another training program

as required by the department by rule;

~~(f)~~(g) teenage parents who are not living in an adult-supervised setting as defined by the department by rule;

~~(g)~~(h) a fugitive felon or probation or parole violator as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608;

~~(h)~~(i) individuals who have fraudulently misrepresented their place of residence, as defined in section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~;~~. The ineligibility continues for a period of 10 years beginning on the date of conviction~~; and~~

~~(i) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6)~~.

(j) an individual convicted after August 22, 1996, of any offense that is classified as a felony and that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6).

~~(4)~~(4) A family is not eligible for financial assistance if the family includes an adult who has received financial assistance in a program funded under ~~the~~ temporary assistance for needy families ~~block grant~~ in any state or states for 60 months or more, whether or not the months are consecutive, ~~except as provided by the department by rule in accordance with section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 608~~ unless an exception is expressly granted by federal law.

~~(5)~~(5) This part may not be interpreted to entitle any individual or family to assistance under programs funded by ~~the~~ temporary assistance for needy families ~~block grant~~."

Section 23. Section 53-4-233, MCA, is amended to read:

"**53-4-233. ~~Investigation of~~ Eligibility determination for applications.** Whenever a ~~county department~~ local office of public assistance receives an application for assistance under this part, an ~~investigation~~ eligibility determination must be promptly made by the ~~county department~~ local office of public ~~welfare~~ assistance. Each applicant shall participate in any screening required by the department and must be informed of the applicant's right to a fair hearing and of the confidential nature of information

secured. Upon completion of an ~~investigation~~ eligibility determination and any required screening, aid must be furnished promptly to all eligible persons. Each applicant must receive written notice of the decision concerning the applicant's request for assistance."

Section 24. Section 53-4-241, MCA, is amended to read:

"**53-4-241. Amount of assistance determined by department rules.** The amount of ~~FAIM~~ financial assistance or nonfiancial assistance granted in any case must be determined according to the rules and standards of assistance established by the department."

Section 25. Section 53-4-246, MCA, is amended to read:

"**53-4-246. (Temporary) County share of participation.** Except for recipients who are enrolled members of an Indian tribe, for each recipient of cash assistance in the FAIM project, the county where the recipient resides shall reimburse the department 22.5% of the nonfederal share of the approved temporary assistance for needy families grant for the recipient. However, a county is not required to reimburse the department more for temporary assistance for needy families grants for 1 state fiscal year than the dollar amount that the county paid as its share of cash assistance and emergency assistance programs in 1996. For purposes of determining the nonfederal share, the federal share is considered to be equal to the federal medical assistance percentage paid to the states for medicaid benefits under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. (Terminates June 30, 2001--sec. 6, Ch. 341, L. 1999.)

53-4-246. (Effective July 1, 2001) County share of participation. Each county where the recipient of ~~FAIM~~ financial assistance resides shall reimburse the department in the amount equal to the percentage of the approved temporary assistance for needy families grants not paid with federal temporary assistance for needy families funds."

Section 26. Section 53-4-602, MCA, is amended to read:

"**53-4-602. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Cash assistance" means monetary payments to a recipient of ~~FAIM~~ financial assistance to

meet basic needs, such as shelter, utilities, clothing, and personal needs.

(2) "Child-care assistance" means payments to or on behalf of the specified caretaker relative of a dependent child to defray the cost of having a third party care for the child.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "FAIM project" means the families achieving independence in Montana project, including a ~~FAIM~~ financial assistance part ~~established in 53-4-603~~, a food stamp part administered under the Food Stamp Act of 1977, 7 U.S.C. 2026, and a medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

(5) "Section 1931 medicaid benefits" means medical assistance authorized by 42 U.S.C. 1396u-1 for families eligible for the Montana medicaid program, as established in Title 53, chapter 6, based on the department's income limitations, as increased each year by that year's increase in the Consumer Price Index for Urban Wage Earners, compiled by the U.S. department of labor, bureau of labor statistics, and other standards approved by the federal government for 1996 for the federal aid to families with dependent children program, as that program was established under Title IV of the federal Social Security Act (42 U.S.C. 601, et seq.)."

Section 27. Section 53-4-606, MCA, is amended to read:

"**53-4-606. Requirements for eligibility -- family investment agreement**. (1) Eligibility for ~~FAIM~~ financial assistance under the FAIM project with regard to income, resources, and all other factors of eligibility must be determined in accordance with the waivers granted by the U.S. secretary of health and human services under section 1115 of the Social Security Act, 42 U.S.C. 1315.

(2) (a) As a condition of eligibility for financial assistance ~~under pathways and the community services program~~, all specified caretaker relatives and other family members, as specified by the department by rule, shall enter into a family investment agreement with the department and shall comply with the terms of that agreement. ~~Entering into an agreement is not a condition of eligibility for the job supplement program.~~

(b) The family investment agreement must set forth the mutual obligations of the participant and the department to help the family achieve the goal of self-sufficiency. The agreement may contain

provisions:

(i) regarding actions to be taken by the specified caretaker relative and by the department to secure child support;

(ii) requiring that the immunization and health-screening requirements of the early and periodic screening, diagnosis, and treatment program be met for all children in the family; ~~and~~

(iii) requiring the participant to cooperate in any assessments necessary to identify barriers to self-sufficiency and listing specific actions to be taken in order to eliminate any identified barriers; and

~~(iii)~~(iv) specifying other services and activities appropriate for the participant or family.

(c) ~~An individual who is required to enter into a family investment agreement and who~~ Families in which the specified caretaker relative or other adult household member, as specified by rule, fails or refuses to enter into a family investment agreement without good cause ~~to do so or fails without good cause to comply with the individual's obligations under the agreement is~~ are ineligible~~, as provided in 53-4-608,~~ for ~~FAIM~~ financial assistance.

(d) An individual who is required to enter into a family investment agreement and who refuses or fails, without good cause, to comply with the terms of the family investment agreement must be sanctioned in accordance with the rules and policies of the department.

~~(3) As a condition of eligibility for the community service program, a specified caretaker relative shall perform community service work as required by the department.~~"

Section 28. Section 53-4-611, MCA, is amended to read:

"**53-4-611. Child-care assistance.** ~~(1) In the job supplement program component of the FAIM project, the~~ The department may provide child-care assistance to all ~~single-parent~~ families receiving financial assistance if child care is necessary to allow the parent to engage in paid employment and if funding is available. Child-care assistance may~~, at the department's discretion,~~ be provided to ~~two-parent~~ families receiving financial assistance if child care is necessary to allow either or both parents to engage in ~~paid employment~~ the activities required by a family investment agreement under 53-4-606 and if funding is available.

~~(2) In the pathways component of the FAIM project, the department may provide child-care assistance to all single-parent families if child care is necessary to allow the parent to participate in an~~

~~activity required by the family investment agreement and if funding is available. Child care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~

~~(3) In the community services program component of the FAIM project, the department may provide child care assistance to all single-parent families if child care is necessary to allow the parent to participate in an activity required by the family investment agreement and if funding is available. Child care assistance may, at the department's discretion, be provided to two-parent families if child care is necessary to allow either or both of the parents to participate in an activity required by the family investment agreement and if funding is available.~~"

Section 29. Section 53-4-612, MCA, is amended to read:

"**53-4-612. Extended ~~child care and~~ medical assistance benefits.** A family receiving ~~FAIM financial assistance under a component of the FAIM project~~ section 1931 medicaid benefits that loses eligibility for assistance because of increased income ~~from any source~~ to the assistance unit, as that term is defined in the rules of the department, may receive extended medical assistance benefits if funding is available, provided that the family's income does not exceed a percentage of the federal poverty level specified by the department by rule~~, and may receive child care assistance pursuant to 53-4-611 if funding is available~~."

Section 30. Section 53-4-613, MCA, is amended to read:

"**53-4-613. Employment and training program.** In cases in which the department determines that participation in the employment and training program would be appropriate for a ~~participant in pathways~~ recipient of financial assistance, the ~~participant~~ recipient may be required to participate in employment and training as one of the conditions of the ~~participant's~~ family investment agreement required under 53-4-606. The department may count education activities as an allowable work activity in a family investment agreement for up to 60 months in a FAIM project cash assistance program consistent with federal law."

Section 31. Section 53-4-702, MCA, is amended to read:

"**53-4-702. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of public health and human services provided for in 2-15-2201.

~~(2) "FAIM financial assistance" means the program that provides participants in the job supplement program, pathways program, and community services program of the FAIM project with benefits that may include cash payments, services, and noncash assistance.~~

~~(3)~~(2) "FAIM project" means the families achieving independence in Montana project as established in 53-4-601.

(3) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(a).

(b) The term does not include nonfinancial assistance.

(4) "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for needy families, as provided in 45 CFR 260.31(b).

(5) "Temporary assistance for needy families" means the block grant program established pursuant to 42 U.S.C. 601, et seq."

Section 32. Section 53-4-704, MCA, is amended to read:

"**53-4-704. Placement of ~~FAIM~~ financial assistance recipients or food stamp program participants for purpose of training.** (1) The department or a person designated by the department may place an individual receiving financial assistance or participating in the ~~FAIM project~~ food stamp program into a position of employment with a public or private entity for the purpose of training the individual in the knowledge and skills necessary for the individual to become successfully employed.

(2) The department may, pursuant to subsection (1), place an individual ~~participating in the FAIM project~~ into a position at a worksite only with the permission and assistance of the public or private entity at the worksite under a written training agreement between the department and the entity.

(3) The placement of an individual into a position at a public or private worksite pursuant to subsection (1) is only for the purpose of training the individual in employment knowledge and skills and

is not for the purpose of providing paid employment for the individual. The placement may not supplant an existing employment position or another individual already employed at the worksite. Placement of the individual at the public or private worksite pursuant to subsection (1) should last no longer than is necessary to achieve the employment training purposes of the ~~FAIM project~~ program.

(4) The private or public entity where an individual is placed pursuant to subsection (1) may choose whether or not to later employ the individual after the conclusion of the individual's training."

Section 33. Section 53-4-705, MCA, is amended to read:

"**53-4-705. Services and activities.** Under the program provided for in 53-4-703, the department shall make available a broad range of services and activities to assist recipients of ~~FAIM~~ financial assistance as specified by the department by rule."

Section 34. Section 53-4-706, MCA, is amended to read:

"**53-4-706. Participation requirements.** (1) Except as otherwise provided in this section, the department may require individuals to participate in the employment and training program as a condition of their eligibility for ~~FAIM~~ financial assistance.

(2) To the extent that the program is available and that state resources permit, the department shall require recipients of ~~FAIM~~ financial assistance ~~who are participating in the pathways component of the FAIM project~~ to participate in the program if the department determines that it is an appropriate activity for the recipient and includes participation as a condition of the recipient's family investment agreement as provided for in 53-4-606."

Section 35. Section 53-4-717, MCA, is amended to read:

"**53-4-717. Sanctions.** If an individual receiving ~~FAIM~~ financial assistance ~~under the FAIM project~~ is required to participate in the employment and training program as a condition of the individual's family investment agreement, as provided for in 53-4-606, and fails without good cause to participate, the individual must be sanctioned in accordance with rules established by the department. Except as required by federal law, a sanction may not include any restriction or termination of food stamps or medicaid coverage, and child care benefits may only be continued for employment-related activities required by the

family investment agreement that the ~~FAIM~~ participant has signed that are to be performed during the sanction period. The department may establish rules to ensure that individuals who participate in good faith are sanctioned properly and avail themselves of additional case management services to ensure compliance with the family investment agreement."

Section 36. Section 53-6-101, MCA, is amended to read:

"**53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended. The department of public health and human services shall administer the Montana medicaid program.

(2) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant women;

(j) services that are provided by physician assistants-certified within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department; and

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2).

(3) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 2;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted case management services for the mentally ill;

(o) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and

(p) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(4) Services for persons qualifying for medicaid under the medically needy category of assistance as described in 53-6-131 may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (2) and (3) to persons qualifying for medicaid under the

medically needy category of assistance.

(5) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving ~~FAIM~~ financial assistance, as defined in ~~53-4-702~~ 53-4-201, as the specified caretaker relative of a dependent child under the FAIM project and for all adult recipients of medical assistance only who are covered under a group related to ~~the~~ a program ~~of FAIM~~ providing financial assistance, as defined in ~~53-4-702~~ 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsections (2)(a) through (2)(l) but may include those optional services listed in subsections (3)(a) through (3)(p) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~ and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(6) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(7) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(8) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(9) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(10) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(11) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the

medical services made available under the Montana medicaid program.

(12) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided in accordance with the provisions of this chapter and the rules adopted under this chapter.

(13) Medicaid payment for personal-care facilities may not be made unless the department certifies to the director of the governor's office of budget and program planning that payment to this type of provider would, in the aggregate, be a cost-effective alternative to services otherwise provided."

Section 37. Section 53-6-113, MCA, is amended to read:

"**53-6-113. Department to adopt rules.** (1) The department of public health and human services shall adopt appropriate rules necessary for the administration of the Montana medicaid program as provided for in this part and ~~as~~ that may be required by federal laws and regulations governing state participation in medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

(2) The department shall adopt rules ~~as~~ that are necessary to further define for the purposes of this part the services provided under 53-6-101 and to provide that services being used are medically necessary and that the services are the most efficient and cost-effective available. The rules may establish the amount, scope, and duration of services provided under the Montana medicaid program, including the items and components constituting the services.

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

(a) the availability of appropriated funds;

(b) the actual cost of services;

(c) the quality of services;

(d) the professional knowledge and skills necessary for the delivery of services; and

(e) the availability of services.

(4) The department shall specify by rule those professionals who may deliver or direct the delivery of particular services.

(5) The department may provide by rule for payment by a recipient of a portion of the

reimbursements established by the department for services provided under this part.

(6) The department may adopt rules consistent with this part to govern eligibility for the Montana medicaid program. Rules may include but are not limited to financial standards and criteria for income and resources, treatment of resources, nonfinancial criteria, family responsibilities, residency, application, termination, definition of terms, confidentiality of applicant and recipient information, and cooperation with the state agency administering the child support enforcement program under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.

(7) The department may adopt rules limiting eligibility based on criteria more restrictive than that provided in 53-6-131 if required by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, or if funds appropriated are not sufficient to provide medical care for all eligible persons.

(8) The department may adopt rules necessary for the administration of medicaid managed-care systems. Rules to be adopted may include but are not limited to rules concerning:

(a) participation in managed care;

(b) selection and qualifications for providers of managed care; and

(c) standards for the provision of managed care.

(9) The department shall establish by rule income limits for eligibility for extended medical assistance of persons receiving ~~benefits from FAIM financial assistance, as defined in 53-4-702, as participants of the FAIM project~~ section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased income to the assistance unit, as that term is defined in the rules of the department, as provided in 53-6-134, and shall also establish by rule the length of time for which extended medical assistance will be provided. The department, in exercising its discretion to set income limits and duration of assistance, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 38. Section 53-6-131, MCA, is amended to read:

"**53-6-131. Eligibility requirements.** (1) Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:

(a) The person receives or is considered to be receiving supplemental security income benefits

under Title XVI of the Social Security Act, 42 U.S.C. 1381, et seq., and does not have income or resources in excess of the applicable medical assistance limits ~~or receive from FAIM financial assistance, as defined in 53-4-702, benefits under Title IV of the federal Social Security Act, 42 U.S.C. 601, et seq~~.

(b) The person would be eligible for assistance under ~~a~~ the program described in subsection (1)(a) if that person were to apply for that assistance.

(c) The person is in a medical facility that is a medicaid provider and, but for residence in the facility, the person would be receiving assistance under ~~one of~~ the ~~programs~~ program in subsection (1)(a).

~~(d) The person is under 19 years of age and meets the conditions of eligibility in the state plan, as defined in 53-4-201, other than with respect to age and school attendance.~~

~~(e)~~(d) The person is under 21 years of age and in foster care under the supervision of the state or was in foster care under the supervision of the state and has been adopted as a child with special needs.

~~(f)~~(e) The person meets the nonfinancial criteria of the categories in subsections (1)(a) through ~~(1)(e)~~ (1)(d) and:

(i) the person's income does not exceed the income level specified for federally aided categories of assistance and the person's resources are within the resource standards of the federal supplemental security income program; or

(ii) the person, while having income greater than the medically needy income level specified for federally aided categories of assistance:

(A) has an adjusted income level, after incurring medical expenses, that does not exceed the medically needy income level specified for federally aided categories of assistance or, alternatively, has paid in cash to the department the amount by which the person's income exceeds the medically needy income level specified for federally aided categories of assistance; and

(B) has resources that are within the resource standards of the federal supplemental security income program.

~~(g)~~(f) The person is a qualified pregnant woman or child as defined in 42 U.S.C. 1396d(n).

(2) The department may establish income and resource limitations. Limitations of income and resources must be within the amounts permitted by federal law for the medicaid program.

(3) The Montana medicaid program shall pay, as required by federal law, the premiums necessary

for medicaid-eligible persons participating in the medicare program and may, within the discretion of the department, pay all or a portion of the medicare premiums, deductibles, and coinsurance for a qualified medicare-eligible person or for a qualified disabled and working individual, as defined in section 6408(d)(2) of the federal Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, who:

(a) has income that does not exceed income standards as may be required by the Social Security Act; and

(b) has resources that do not exceed standards that the department determines reasonable for purposes of the program.

(4) The department may pay a medicaid-eligible person's expenses for premiums, coinsurance, and similar costs for health insurance or other available health coverage, as provided in 42 U.S.C. 1396b(a)(1).

(5) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may grant eligibility for basic medicaid benefits as described in 53-6-101 to an individual receiving ~~FAIM financial assistance~~ section 1931 medicaid benefits, as defined in ~~53-4-702~~ 53-4-602, as the specified caretaker relative of a dependent child under the ~~FAIM project and to all adult recipients of medical assistance only who are covered under a group related to the program of FAIM financial assistance~~ section 1931 medicaid program. A recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage as provided in 53-6-101.

(6) The department, under the Montana medicaid program, may provide, if a waiver is not available from the federal government, medicaid and other assistance mandated by Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, and not specifically listed in this part to categories of persons that may be designated by the act for receipt of assistance.

(7) Notwithstanding any other provision of this chapter, medical assistance must be provided to infants and pregnant women whose family income does not exceed 133% of the federal poverty threshold, as provided in 42 U.S.C. 1396a(a)(10)(A)(ii)(IX) and 42 U.S.C. 1396a(l)(2)(A)(i), and whose family resources do not exceed standards that the department determines reasonable for purposes of the program.

(8) Subject to appropriations, the department may cooperate with and make grants to a nonprofit corporation that uses donated funds to provide basic preventive and primary health care medical benefits to children whose families are ineligible for the Montana medicaid program and who are ineligible for any other health care coverage, are under 19 years of age, and are enrolled in school if of school age.

(9) A person described in subsection (7) must be provided continuous eligibility for medical assistance, as authorized in 42 U.S.C. 1396a(e)(5) through a(e)(7).

(10) The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services. The standards for eligibility for mental health services may provide for eligibility for households not eligible for medicaid with family income that does not exceed 200% of the federal poverty threshold or that does not exceed a lesser amount determined in the discretion of the department. The department may by rule specify under what circumstances deductions for medical expenses should be used to reduce countable family income in determining eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged recipients for services. The fees, premiums, or copayments may vary according to family income."

Section 39. Section 53-6-132, MCA, is amended to read:

"**53-6-132. Application for assistance -- exception.** (1) ~~Except as provided in~~ Subject to subsection (2), application for assistance under this part ~~must~~ may be made ~~to the~~ in any local office of ~~the county department in the county in which the person is residing~~ public assistance. The application must be presented in the manner and on the form prescribed by the department of public health and human services. All individuals wishing to apply must have the opportunity to do so.

(2) Notwithstanding the provisions of subsection (1), the department may designate an entity other than the ~~county department~~ local office of public assistance to determine eligibility for medicaid managed care services."

Section 40. Section 53-6-134, MCA, is amended to read:

"**53-6-134. Extension of eligibility for medical assistance to persons terminated from ~~FAIM financial assistance~~ section 1931 medicaid program.** (1) In providing for the extension of eligibility for

medical assistance under subsection (2), the department may provide for health insurance or other health coverage in accordance with subsections 1925(a)(4)(B) and 1925(b)(4)(C) of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6(a)(4)(B) and 42 U.S.C. 1396r-6(b)(4)(C), and may exercise the other options contained in section 1925 of Title XIX of the Social Security Act, 42 U.S.C. 1396r-6, regarding the provision of medical assistance.

(2) In accordance with waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department of public health and human services may provide extended eligibility for medical assistance for a period of time established by the department by rule for persons receiving ~~FAIM financial assistance, as defined in 53-4-702, under the job supplement program, pathways, or community services program components of the FAIM project described in 53-4-603~~ section 1931 medicaid benefits, as defined in 53-4-602, who lose eligibility because of increased earned or unearned income ~~from any source or because of exhausting time-limited earned income disregards~~ to the assistance unit, as that term is defined in the rules of the department, provided that the family's income does not exceed a percentage of the federal poverty level established by the department by rule. The department, in exercising its discretion to establish income standards and duration of extended medical assistance by rule, may consider the amount of funds appropriated by the legislature ~~for the FAIM project~~."

Section 41. Section 53-24-106, MCA, is amended to read:

"**53-24-106. Criminal laws limitation.** (1) ~~No~~ A county, municipality, or other political subdivision may not adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) ~~Nothing in this~~ This section ~~affects~~ does not affect any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, an aircraft, a boat, machinery, or other equipment or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

(3) This section does not prevent the department from imposing a sanction on or denying

eligibility to applicants for or recipients of public assistance who fail or refuse to comply with all eligibility criteria and program requirements."

Section 42. Coordination instruction. If House Bill No. 101 is not passed and approved, then all references in [this act] to local offices of public assistance are changed to references to county welfare offices.

Section 43. Repealer. Sections 53-4-247, 53-4-603, 53-4-607, 53-4-608, and 53-4-701, MCA, are repealed.

Section 44. Effective date. [This act] is effective July 1, 2001.

Section 45. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to payments made after January 1, 2001, for mental health services provided to children with serious emotional disturbances for whom mental health services are not provided by any other public mental health services program and whose family income is at or below 150% of the federal poverty level.

- END -